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REVISED STATUTES

OF

ONTARIO, 1914,

BEING A

REVISION AND CONSOLIDATION OF THE REVISED STATUTES
OF ONTARIO, 1897, AND THE SUBSEQUENT PUBLIC
GENERAL ACTS

OF THE

LEGISLATURE OF ONTARIO.

VOL II. *part I*



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THE REVISED STATUTES OF ONTARIO, 1914

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COMPANIES AND CORPORATIONS.

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An Act respecting Joint Stock and other Companies.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Companies Act*. Short title.
2 Geo. V. c. 31, s. 1.

2. In this Act,

Interpreta-
tion.

- (a) "Company" shall mean a company having a capital divided into shares; "Company."
- (b) "Corporation" shall include a company whether with or without share capital; "Corpora-
tion."
- (c) "Private company" shall mean a company as to which by Special Act, Letters Patent or Supplementary Letters Patent "Private
company."
- (i.) The right to transfer its shares is restricted,
- (ii.) The number of its shareholders, exclusive of persons who are in the employment of the company, is limited to fifty, two or more persons holding one or more shares jointly being counted as a single shareholder, and
- (iii.) Any invitation to the public to subscribe for any shares, debentures, or debenture stock of the company is prohibited;
- (d) "Public Company" shall mean a company not being a Private Company within the meaning of clause c. 2 Geo. V. c. 31, s. 2. "Public
company."

PART I.

INCORPORATION, RE-INCORPORATION, AMALGAMATION.

What corporations may be incorporated by letters patent.

3. The Lieutenant-Governor may, by Letters Patent, grant a charter to any number of persons, not less than five, of the age of twenty-one years, who petition therefor, constituting such persons and any others who have become subscribers to the memorandum of agreement hereinafter mentioned and persons who thereafter become shareholders or members in the corporation thereby created a corporation for any of the purposes to which the authority of this Legislature extends, except those of railway and incline railway and street railway companies, insurance corporations within the meaning of *The Ontario Insurance Act*, and corporations within the meaning of *The Loan and Trust Corporations Act*. 2 Geo. V. c. 31, s. 3.

Exceptions.

Rev. Stat. cc. 183, 184.

Powers of Provincial Secretary.

4. The Provincial Secretary may, under the seal of his office, have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant-Governor but not those conferred on the Lieutenant-Governor in Council. 2 Geo. V. c. 31, s. 4.

Incorporation with share capital.

5.—(1) The applicants for the incorporation of a company may petition the Lieutenant-Governor for the grant of a Charter.

Contents of petition.

(2) The petition, Form 1, shall show:

- (a) The proposed name of the company;
- (b) The objects for which the company is to be incorporated;
- (c) The place within Ontario where the head office of the company is to be situate;
- (d) The amount of the capital of the company, the number of shares, and the amount of each share;
- (e) The name in full, the place of residence and the calling of each of the applicants;
- (f) The names of the applicants; not less than three, who are to be the provisional directors of the company.

Memorandum of agreement.

(3) The petition shall be accompanied by a memorandum of agreement in duplicate, Form 2, signed by the petitioners.

Petitioners to be *bona fide* holders of shares.

(4) Each petitioner shall be a *bona fide* subscriber in his own right for the share or shares which by the memorandum of agreement he agrees to take.

Prayer for insertion of special clauses.

(5) The petition may ask to have embodied in the Letters Patent any provision which under this Act might be embodied in a by-law of the company. 2 Geo. V. c. 31, s. 5.

6.—(1) The applicants for the incorporation of a corporation not having share capital may petition the Lieutenant-Governor for the grant of a Charter. Incorporation without share capital.

(2) The petition, Form 3, shall show:

Contents of petition.

- (a) The proposed name of the corporation;
- (b) The objects for which the corporation is to be incorporated;
- (c) The place within Ontario where the head office of the corporation is to be situate;
- (d) The name in full, the place of residence and the calling of each of the applicants;
- (e) The names of the first directors of the corporation.

(3) The petition shall be accompanied by a memorandum of agreement in duplicate, Form 4, signed by the petitioners setting out such regulations as may be deemed expedient for: Memorandum of agreement.

- (a) The election of members, trustees, directors and officers;
- (b) The holding of meetings of members, trustees and directors;
- (c) The establishment of branches;
- (d) The payment of directors, trustees, officers and employees; and
- (e) The control and management of the affairs of the corporation.

(4) The memorandum shall be expressed in separate paragraphs numbered consecutively, and the petitioners may adopt all or any of the provisions of Form 4 or may substitute others therefor. 2 Geo. V. c. 31, s. 6. Form of.

7. In so far as the Letters Patent and Supplementary Letters Patent do not exclude or modify the regulations in Form 4, those regulations shall, so far as practicable, be the regulations of a corporation not having share capital in the same manner and to the same extent as if they were contained in the Letters Patent or Supplementary Letters Patent. 2 Geo. V. c. 31, s. 7; 3-4 Geo. V. c. 18, s. 33 (1). Effect of regulations in memorandum.

8. The Lieutenant-Governor on an application for Letters Patent or Supplementary Letters Patent may give to the corporation a name different from its proposed or existing name, as the case may be, and may vary the objects or other provisions or terms stated in the petition or memorandum of agreement. 2 Geo. V. c. 31, s. 8; 3-4 Geo. V. c. 18, s. 33 (2). Change of name or terms of application.

9. A corporation without share capital heretofore or hereafter incorporated, with the consent in writing of all its members, may by by-law provide for the creation of a capital divided into shares and for the allotment and payment of Creation of capital of corporation not already having share capital.

such shares and may fix and prescribe the rights and privileges of the shareholders; but no such by-law shall take effect until confirmed by Letters Patent or by Supplementary Letters Patent. 2 Geo. V. c. 31, s. 9; 3-4 Geo. V. c. 18, s. 33 (3).

Amalgamation
of corpora-
tions.

10.—(1) Any two or more corporations to which this Act applies having the same or similar objects within the scope of this Act, may, in the manner herein provided, amalgamate and may enter into all contracts and agreements necessary to such amalgamation. 2 Geo. V. c. 31, s. 10 (1).

Joint agree-
ment between
directors pro-
posing to
amalgamate,
etc.

(2) The corporations proposing to amalgamate may enter into a joint agreement for the amalgamation prescribing the terms and conditions thereof, the mode of carrying the same into effect, and stating the name of the new corporation, the names, callings, and places of residence of the first directors thereof and how and when the subsequent directors shall be elected, with such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the new corporation, and in cases of companies the number of shares of the capital, the par value of each share, and the manner of converting the share capital of each of the companies into that of the new company. 2 Geo. V. c. 31, s. 10 (2); 3-4 Geo. V. c. 18, s. 33 (4).

Submission to
shareholders
or members
of each
corporation.

(3) The agreement shall be submitted to the shareholders or members of each of the corporations at a general meeting thereof called for the purpose of taking the same into consideration.

Consideration
of agreement
and certificate
of adoption.

(4) At such meetings of shareholders or members the agreement shall be considered, and if two-thirds of the votes of all the shareholders or members of each of such corporations are for the adoption of the agreement that fact shall be certified upon the agreement by the secretary of each of such corporations under the corporate seal thereof.

Petition for
confirmation
by letters
patent.

(5) Thereupon the several corporations by their joint petition may apply to the Lieutenant-Governor for Letters Patent confirming the agreement, and on and from the date of the Letters Patent the corporations shall be deemed and taken to be amalgamated and to form one corporation by the name in the Letters Patent provided, and the corporation so incorporated shall possess all the property, rights, privileges and franchises and be subject to all the liabilities, contracts, disabilities and duties of each of the corporations so amalgamated. 2 Geo. V. c. 31, s. 10 (3-5).

Re-incorpora-
tion of
corporation.

11. A corporation incorporated for purposes or objects within the scope of this Act, whether under a special or general Act, and being at the time of its application a subsisting and valid corporation, may apply for Letters Patent under this Act; and the Lieutenant-Governor may grant

Letters Patent incorporating the shareholders or members of the corporation as a corporation under this Act. 2 Geo. V. c. 31, s. 11.

12. Where an existing corporation applies for the issue of Letters Patent under the provisions of the next preceding section, the Lieutenant-Governor may, by Letters Patent, limit the powers of the corporation or extend them to such other objects, within the scope of this Act, as the applicant desires, name the first directors of the new corporation and give to it the name of the old corporation or any other name. 2 Geo. V. c. 31, s. 12.

Extension of powers on re-incorporation.

13. All rights of creditors against the property, rights and assets of a corporation amalgamated or re-incorporated under the provisions of this Act, and all liens upon its property, rights and assets shall be unimpaired by such amalgamation, or re-incorporation, and all debts, contracts, liabilities and duties of such corporation shall thenceforth attach to the new or re-incorporated corporation and may be enforced against it to the same extent as if such debts, contracts, liabilities and duties had been incurred or contracted by it. 2 Geo. V. c. 31, s. 13.

Rights of creditors preserved.

14. A private company may be converted into a public company by Supplementary Letters Patent if

Conversion of private company into a public company.

(a) A resolution determining that it is expedient that the company should be so converted is passed by a two-thirds vote of the shareholders at a general meeting of the company called for the purpose of considering the resolution, and

Resolution therefor.

(b) The company files with the Provincial Secretary such a statement in lieu of a prospectus as the company, if a public company, would have had to file before allotting any of its shares or debentures or a prospectus together with such a statutory declaration as the company if a public company would have had to file before commencing business. 2 Geo. V. c. 31, s. 14; 3-4 Geo. V. c. 18, s. 33 (5).

Filing statement, etc.

15.—(1) Where a corporation has ceased to carry on business except for the purpose of winding up its affairs and has no debts or obligations that have not been provided for or protected the directors may pass by-laws for distributing the assets of the corporation or any part of them among the shareholders.

Distribution of assets on ceasing to carry on business.

(2) The by-law shall not take effect unless or until it is confirmed by a two-thirds vote of the shareholders present in person or by proxy at a general meeting duly called for considering the same and by the Lieutenant-Governor in Council. 2 Geo. V. c. 31, s. 15.

Conditions.

Supplementary letters patent for certain purposes.

16.—(1) The directors of a corporation may pass a by-law authorizing an application to the Lieutenant-Governor for the issue of Supplementary Letters Patent providing for—

Varying capital stock.
Re-dividing shares.

(a) Increasing or decreasing the capital;

(b) Re-dividing the capital of the corporation into shares of smaller or larger amount;

Varying powers.

(c) Limiting the powers of the corporation or extending them to such objects within the scope of this Act as the corporation may desire;

Varying borrowing powers.

(d) Limiting or increasing the amount which the corporation may borrow upon debentures or otherwise;

Amending charter.

(e) Varying any provision contained in the special Act or Letters Patent or Supplementary Letters Patent;

Making other provisions.

(f) Any other matter or thing in respect of which provision might have been made had the corporation been incorporated under this Act. 2 Geo. V. c. 31, s. 16 (1).

Confirming by-law.

(2) The application shall not be made until the by-law has been confirmed, in the case of a company, by a vote of the shareholders present or represented by proxy, at a general meeting duly called for considering the same, and holding not less than two-thirds of the issued capital stock represented at such meeting or, in the case of a corporation not having share capital, by a vote of two-thirds of the members so present or represented as the case may be. 2 Geo. V. c. 31, s. 16 (2); 3-4 Geo. V. c. 18, s. 33 (6).

Increase of capital.

(3) The capital shall not be increased until ninety per centum of the authorized capital has been subscribed and fifty per centum paid thereon.

Rights of creditors preserved.

(4) On a reduction of the capital of a company the liability of shareholders to persons who at the time of such reduction are creditors shall remain as though the reduction had not been made. 2 Geo. V. c. 31, s. 16 (3-4).

Sufficiency of material to be established.

17. Before Letters Patent or Supplementary Letters Patent are issued the applicants shall establish to the satisfaction of the Provincial Secretary the sufficiency of the petition, memorandum of agreement, by-laws, resolution and all documents filed on such application, and shall furnish such evidence of the *bona fides* of the application as he may deem necessary. 2 Geo. V. c. 31, s. 17.

Proofs of matters under this Act.

18. The Provincial Secretary, or any officer to whom the application may be referred, may take evidence under oath. 2 Geo. V. c. 31, s. 18.

19. The Letters Patent or Supplementary Letters Patent may impose any conditions with respect to the by-laws of a corporation or any amendments thereof, and in such event the corporation shall not carry on its undertaking, or any part thereof, nor shall the by-laws be of any force or validity until the conditions so imposed are complied with. 2 Geo. V. c. 31, s. 19.

20. The Letters Patent or Supplementary Letters Patent may authorize the Provincial Secretary whenever he sees fit to appoint an auditor to examine the books of the corporation or an inspector to inspect its undertaking and affairs, or to call a general meeting of its shareholders or members, upon such terms as may be therein set out. 2 Geo. V. c. 31, s. 20.

21. Notice of the granting of Letters Patent or Supplementary Letters Patent shall be given forthwith by the Provincial Secretary in the *Ontario Gazette*. 2 Geo. V. c. 31, s. 21.

22. A corporation shall be deemed to be existing from the date of the Letters Patent incorporating the same. 2 Geo. V. c. 31, s. 22.

23.—(1) A company shall possess as incidental and ancillary to the powers set out in the Letters Patent or Supplementary Letters Patent power to

(a) Carry on any other business, whether manufacturing or otherwise, capable of being conveniently carried on in connection with its business or calculated directly or indirectly to enhance the value of or render profitable any of the company's property or rights;

(b) Acquire or undertake the whole or any part of the business, property and liabilities of any person or company carrying on any business which the company is authorized to carry on, or possessed of property suitable for the purposes of the company;

(c) Apply for, purchase or otherwise acquire any patents, licenses, concessions and the like, conferring any exclusive or non-exclusive, or limited right to use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the company, or the acquisition of which may seem calculated directly or indirectly to benefit the company, and to use, exercise, develop or grant licenses in respect of, or otherwise turn to account the property, rights or information so acquired;

- (d) Enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise, with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction which the company is authorized to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit the company; and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or otherwise acquire shares and securities of any such company, and to sell, hold, re-issue, with or without guarantee, or otherwise deal with the same;
- (e) Subject to section 94, take, or otherwise acquire and hold, shares in any other company having objects altogether or in part similar to those of the company or carrying on any business capable of being conducted so as directly or indirectly to benefit the company;
- (f) Enter into any arrangements with any authorities, municipal, local or otherwise, that may seem conducive to the company's objects, or any of them, and obtain from any such authority any rights, privileges and concessions which the company may think it desirable to obtain, and carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (g) Establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company, or its predecessors in business, or the dependents or connections of such persons, and grant pensions and allowances, and make payments towards insurance, and subscribe or guarantee money for charitable or benevolent objects, or for any exhibition, or for any public, general or useful object;
- (h) Promote any company or companies for the purpose of acquiring or taking over all or any of the property and liabilities of the company, or for any other purpose which may seem directly or indirectly calculated to benefit the company;
- (i) Purchase, take on lease or in exchange, hire or otherwise acquire any personal property and any rights or privileges which the company may think necessary or convenient for the purposes of its business and in particular any machinery, plant, and stock in trade;

- (j) Construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, water-courses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences which may seem calculated directly or indirectly to advance the company's interests, and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
- (k) Lend money to customers and others having dealings with the company and guarantee the performance of contracts by any such persons;
- (l) Draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, and other negotiable or transferable instruments;
- (m) Sell or dispose of the undertaking of the company or any part thereof for such consideration as the company may think fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of the company, if authorized so to do by the vote of a majority in number of the shareholders present or represented by proxy, at a general meeting duly called for considering the matter, and holding not less than two-thirds of the issued capital stock of the company;
- (n) Adopt such means of making known the products of the company as may seem expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations;
- (o) Sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the company;
- (p) Do all or any of the above things, and all things authorized by the Letters Patent or Supplementary Letters Patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
- (q) Do all such other things as are incidental or conducive to the attainment of the above objects and of the objects set out in the Letters Patent and Supplementary Letters Patent. 2 Geo. V. c. 31, s. 23 (1); 3-4 Geo. V. c. 18, s. 33 (7).

Powers may
be withheld.

(2) All or any of the powers set out in subsection 1 may be withheld by the Letters Patent or Supplementary Letters Patent. 2 Geo. V. c. 31, s. 23 (2).

Incidental
powers.

24.—(1) A corporation incorporated under this Act shall have power:—

Buildings,
etc.

(a) To construct, maintain and alter any buildings or works necessary or convenient for the purposes of the corporation;

Real estate.

(b) To acquire by purchase, lease or other title, and to hold any real estate necessary for the carrying on of its undertaking, and when no longer required to sell, alienate and convey the same.

Incorporation
subject to
trusts.

(2) The corporation shall, upon its incorporation, be invested with all the property and rights, real and personal theretofore held by or for it under any trust created with a view to its incorporation. 2 Geo. V. c. 31, s. 24.

Payment of
property
acquired in
shares.

25. The directors if authorized so to do by a vote of shareholders present or represented by proxy at a general meeting duly called for considering the matter and holding not less than two-thirds of the issued capital stock represented at the meeting may pay for any property acquired or taken over or purchased under the provisions of clause (b) or clause (i) of subsection 1 of section 23 or clause (b) of section 24 wholly or partly in shares fully or partly paid up. 2 Geo. V. c. 31, s. 25; 3-4 Geo. V. c. 18, s. 33 (8).

Restrictions as
to holding
real estate.

26.—(1) Unless other special statutory enactments apply, any land or interest therein at any time acquired by the corporation and not required for its actual use and occupation or for the purposes of its business, or not held by way of security, shall not be held by the Corporation, or by any trustee on its behalf, for a longer period than seven years after the acquisition thereof, or after it has ceased to be required for its actual use and occupation or for the purposes of its business, but shall be absolutely sold and disposed of, so that the corporation shall no longer retain any interest therein unless by way of security.

Forfeiture of.

(2) Any such land or interest therein not within the exceptions hereinbefore mentioned, held by the corporation for a longer period than seven years without being disposed of shall be forfeited to His Majesty for the use of Ontario.

Extension of
time for
holding.

(3) The Lieutenant-Governor in Council may extend such period from time to time, not exceeding in the whole twelve years, and no such forfeiture shall take effect or be enforced until the expiration of at least six months after notice in writing to the corporation of the intention of His Majesty to claim the same, and during such six months the corporation may dispose of the land or its interest therein.

(4) The corporation shall give to the Provincial Secretary Statement to be furnished to Provincial Secretary. when required a full and correct statement of all lands or interests therein at the date of such statement held by or in trust for the corporation. 2 Geo. V. c. 31, s. 26.

27. The provisions of this Act relating to matters preliminary to the issue of the Letters Patent or Supplementary Letters Patent shall be deemed to be directory only; and no Letters Patent or Supplementary Letters Patent, notice, order or other proceeding by or on behalf of the Lieutenant-Governor, Provincial Secretary or other Government or Departmental officer under this Act shall be void or voidable on account of any irregularity, or otherwise, in respect of any matter preliminary to the issue of the Letters Patent or Supplementary Letters Patent, notice, order or other proceeding or of any alterations in any petition or documents submitted in order to comply with this Act or with the departmental practice thereunder. 2 Geo. V. c. 31, s. 27. Defects of form not to invalidate letters patent, etc.

28.—(1) If a corporation incorporated by Letters Patent does not go into actual *bona fide* operation within two years after incorporation, or for two consecutive years does not use its corporate powers, such powers, except so far as is necessary for the winding up of the corporation, shall be *ipso facto* forfeited. Forfeiture of charter for non-user.

(2) In any action or proceeding where such non-user is alleged proof of user shall lie upon the corporation. Proof of user.

(3) No such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of the forfeiture. Rights of creditors not affected. 2 Geo. V. c. 31, s. 28.

29. The Letters Patent by which a corporation is incorporated and any Supplementary Letters Patent amending or varying the same may, at any time, be declared to be forfeited and may be revoked and made void by the Lieutenant-Governor in Council, on sufficient cause being shown, upon such conditions and subject to such provisions as he may deem proper. 2 Geo. V. c. 31, s. 29. Revocation of charter.

30.—(1) If a corporation exercises its corporate powers when the number of its shareholders or members is less than five, for a period of more than six months after the number has been so reduced, every person who is a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is cognizant of the fact that it so exercises its corporate powers, shall be severally liable for the payment of the whole of the debts of the corporation contracted during such time, and may be sued for the same without the joinder in the action of the corporation or of any other shareholder or member. Company with less than five members exercising corporate powers, shareholders personally liable.

Shareholder
by protest
may relieve
himself from
liability.

(2) A shareholder or member who has become aware that the corporation is so exercising its corporate powers may serve a protest in writing on the corporation and may by registered letter notify the Provincial Secretary of such protest having been served and of the facts upon which it is based, and such shareholder or member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Revocation of
charter if
number of
shareholders
not brought
up to five.

(3) If, after notice from the Provincial Secretary, the corporation refuses or neglects to bring the number of its shareholders or members up to five such refusal or neglect may, upon the report of the Provincial Secretary, be regarded by the Lieutenant-Governor in Council as sufficient cause for the revocation of the charter of the corporation. 2 Geo. V. c. 31, s. 30.

Surrender of
charter.

31.—(1) The charter of a corporation incorporated by Letters Patent may be surrendered if the corporation proves to the satisfaction of the Lieutenant-Governor:—

- (a) That it has no debts or obligations; or,
- (b) That it has parted with its property, divided its assets rateably amongst its shareholders or members and has no debts or liabilities, or,
- (c) That the debts and obligations of the corporation have been duly provided for or protected or that the creditors of the corporation or other persons holding them consent; and
- (d) That the corporation has given notice of the application for leave to surrender by publishing the same once in the *Ontario Gazette* and once in a newspaper published at or as near as may be to the place where the corporation has its head office.

Acceptance of
surrender and
dissolution of
corporation.

(2) The Lieutenant-Governor, upon a due compliance with the provisions of this section, may accept a surrender of the charter and direct its cancellation, and fix a date upon and from which the corporation shall be dissolved, and the corporation shall thereby and thereupon become dissolved accordingly. 2 Geo. V. c. 31, s. 31.

Termination
of existence of
corporations
not incorpor-
ated by
letters patent.

32. The corporate existence of a corporation incorporated otherwise than by Letters Patent may be terminated by order of the Lieutenant-Governor upon petition therefor by such corporation under like circumstances, in like manner and with like effect as a corporation incorporated by Letters Patent may surrender its charter. 2 Geo. V. c. 31, s. 32.

Regulations by
Lieutenant-
Governor.
in Council.

33. The Lieutenant-Governor in Council may make regulations with respect to:—

- (a) The cases in which notice of application for Letters Patent or Supplementary Letters Patent must be given;
- (b) The forms of Letters Patent, Supplementary Letters Patent, notices and other instruments and documents relating to applications and other proceedings;
- (c) The form and manner of the giving of any notice required by this Act;
- (d) Such other matters as he may deem necessary or expedient for carrying out the objects and provisions of this Act,

and such regulations shall be published in the *Ontario Gazette* and shall be laid before the Assembly forthwith if the Assembly is then in session, and if not then in session within fifteen days after the opening of the next session. 2 Geo. V. c. 31, s. 33.

PART II.

NAME OF CORPORATION.

34.—(1) The corporate name of every company with share capital shall have the word "Limited" as the last word thereof. Use of word "Limited."

(2) Where the company or any director, manager, officer or employee thereof uses the name of the company, the word "Limited" shall appear as the last word thereof. Idem.

(3) Stamping, writing, printing, or otherwise marking on goods, wares and merchandise of the company, or upon packages containing the same shall not be deemed to be a use of the name within the provisions of this section. Saving.

(4) Where the word "company," "club," "association," or other equivalent word forms part of the name the word "Limited" may be abbreviated to "Ltd." or "Ld." 2 Geo. V. c. 31, s. 34 (1)-(4). Abbreviation.

35. Every private company shall have on its seal the words "Private Company" and upon every share certificate issued by the company there shall be distinctly written or printed the same words. 3-4 Geo. V. c. 18, s. 33 (9). "Private Company" to be on seal and on share certificates.

36. Every company and every director, manager, officer or other employee making default in complying with the provisions of the next preceding two sections shall incur a penalty not exceeding \$10 for a first offence and not exceeding \$100 for every subsequent similar offence. 2 Geo. V. c. 31, s. 34 (5); 3-4 Geo. V. c. 18, s. 33 (10). Penalty.

37. The corporate name shall be one which is not objectionable upon any public ground and is not that of any Name to be free from objection.

Proviso.

known corporation or association incorporated or unincorporated, or of any partnership or of any individual, or any name under which any known business is being carried on, or so nearly resembling the same as to be calculated to deceive; but a subsisting corporation, association, partnership, individual or person may consent that its or his name, in whole or in part, be granted to a new corporation incorporated for the purpose of acquiring or promoting the objects of such business. 2 Geo. V. c. 31, s. 35.

When name of one corporation may be given to another.

38.—(1) The name of a corporation which has not, for three consecutive years, made the annual summary prescribed by this Act may be given in whole or in part to a new corporation, unless the defaulting corporation, on notice by the Provincial Secretary by registered letter addressed to the corporation or its president at the address shown by its last return, proves to the satisfaction of the Lieutenant-Governor that it is still a subsisting corporation.

Idem.

(2) If, at the end of one month from the date of such notice, the Provincial Secretary has not been satisfied by the corporation or its president that the corporation is a subsisting corporation it shall be no longer entitled to the use of the corporate name.

Idem.

(3) Where no annual summary has been filed by a corporation for three years immediately following its incorporation its name may be given to another corporation without notice and such first-mentioned corporation shall be deemed not to be subsisting. 2 Geo. V. c. 31, s. 36.

Change of name if objectionable.

39. Where it is made to appear, to the satisfaction of the Lieutenant-Governor in Council, that any corporation is incorporated under a name the same as or so similar to that of an existing corporation, company, partnership, association, individual, or business as to be calculated to deceive the Lieutenant-Governor in Council may by Order change the name of the corporation. 2 Geo. V. c. 31, s. 37.

Or upon application.

40.—(1) Where a corporation is desirous of changing its name the Lieutenant-Governor, upon being satisfied that the corporation is solvent, and that the change desired is not for any improper purpose, and is not otherwise objectionable, may change the name of the corporation.

In case proposed name is objectionable.

(2) Where the proposed name is considered objectionable the Lieutenant-Governor may change the name of the corporation to some unobjectionable name. 2 Geo. V. c. 31, s. 38.

Notice of change.

41. Notice of the change of the name of a corporation shall be given by the Provincial Secretary by publication in the *Ontario Gazette*. 2 Geo. V. c. 31, s. 39.

Change not to affect rights or obligations.

42. The alteration of the name of a corporation shall not affect its rights or obligations. 2 Geo. V. c. 31, s. 40.

PART. III.

MEETINGS OF COMPANY.

First Meeting of Private Company, or of a Company which is not offering Shares, Debentures or Debenture Stocks to the Public for Subscription.

43.—(1) The provisional directors of a private company First meeting. or a company which does not offer shares, debentures or debenture stock to the public for subscription shall call a general meeting of the company to be held at a convenient place within two months from the date of the Letters Patent for the purpose of electing directors, appointing auditors, sanctioning the by-laws of the company, and transacting such other business as may be necessary to enable the company to carry on its undertaking, and shall, at least ten days before the day on which such meeting is to be held, give Notice. notice of such meeting by registered letter addressed to each shareholder, setting out in detail the business to be transacted and matters to be considered thereat.

(2) The provisional directors shall report to such meet- Report at first meeting. ing

- (a) The number of shares subscribed;
- (b) The names of the subscribers;
- (c) The amount paid thereon;
- (d) All contracts entered into by or on behalf of the company;
- (e) The amount of the preliminary expenses, and
- (f) A financial statement of the affairs of the company signed by the auditors, if any.

(3) If the meeting is not called by the provisional directors as aforesaid any three or more shareholders may call the Shareholders may call. meeting. 2 Geo. V. c. 31, s. 41.

(As to statutory meeting of public companies, see section 117.)

General Meetings.

44. In default of other express provision in the Special Notice of meeting. Act, the Letters Patent, or Supplementary Letters Patent or by-laws of a company, notice of the time and place for holding general meetings of every company, including the statutory meeting and the annual and special meetings, shall be given at least ten days previously thereto by registered letter to each shareholder at his last known address, and by an advertisement in a newspaper published at or as near as may be to the place where the company has its head office and to the chief place of business of the company if these differ. 2 Geo. V. c. 31, s. 42.

Annual
meeting.

45.—(1) The annual meeting of the shareholders of the company shall be held at such time and place in each year as the Special Act, Letters Patent, Supplementary Letters Patent or by-laws of the company may provide, and in default of any such provision on the fourth Wednesday in January in every year.

Report to be
sent share-
holders.

(2) The directors shall, at least seven days before the day on which the meeting is held, send by post to every shareholder a report containing

Balance sheet.

(a) A balance sheet made up to a date not more than three months before such annual meeting;

Abstract of
income and
expenditure.

(b) An abstract of income and expenditure for the financial period ending upon the date of such balance sheet;

Auditor's
report.

(c) The report of the auditor or auditors;

Further
necessary
information.

(d) Such further information respecting the company's financial position as the Special Act, the Letters Patent, Supplementary Letters Patent, or the by-laws of the company may require;

and the directors shall lay such report before the meeting.

Balance sheet
to show assets
and liabilities

(3) Every balance sheet shall be drawn up so as to distinguish at least the following classes of assets and liabilities, namely:

(a) Cash;

(b) Debts owing to the company from its customers;

(c) Debts owing to the company from its directors, officers and shareholders;

(d) Stock in trade;

(e) Expenditures made on account of future business;

(f) Land, buildings and plant;

(g) Goodwill, franchises, patents and copyrights, trademarks, leases, contracts and licenses;

(h) Debts owing by the company secured by mortgage or other lien upon the property of the company;

(i) Debts owing by the company but not secured;

(k) Amount received on common shares;

(l) Amount received on preferred shares;

(m) Indirect and contingent liabilities.

When report
need not
be sent.

(4) If the by-laws of the company so provide it shall not be necessary to send the report mentioned in subsection 2 to the shareholders. 2 Geo. V. c. 31, s. 43.

46.—(1) Upon the receipt of a requisition in writing, signed by the holders of not less than one-tenth of the subscribed shares of the company, setting out the objects of the proposed meeting, the directors, or, if there is not a quorum in office, the remaining directors or director shall forthwith convene a special general meeting of the company for the transaction of the business mentioned in the requisition. Special general meeting by directors on requisition therefor.

(2) If the meeting is not called and held within twenty-one days from the date upon which the requisition was left at the head office of the company any shareholders holding not less than one-tenth in value of the subscribed shares of the company, whether they signed the requisition or not, may themselves convene such special general meeting. By shareholders.

(3) The directors may at any time, of their own motion, call a special general meeting of the company for the transaction of any business. By directors.

(4) Notice of any special general meeting shall state the business which is to be transacted at it. 2 Geo. V. c. 31, s. 44. Notice of.

47. The president shall preside as chairman at every general meeting of the company, and if there is no president or vice-president, or if at any meeting neither of them is present within fifteen minutes after the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairman. 2 Geo. V. c. 31, s. 45. Presiding officer. Chairman to be elected when necessary.

48. The chairman may, with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn any meeting from time to time and from place to place. 2 Geo. V. c. 31, s. 46. Adjournment by consent.

49.—(1) At any general meeting, unless a poll is demanded, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minutes of the company, shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. Procedure as to resolution.

(2) If a poll is demanded it shall be taken in such manner as the by-laws prescribe, and if the by-laws make no provision therefor then as the chairman may direct. Taking vote when poll is demanded.

(3) In the case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote. 2 Geo. V. c. 31, s. 47. Casting vote.

50. Subject to the Special Act, Letters Patent, Supplementary Letters Patent or by-laws, at all meetings of shareholders every shareholder shall be entitled to as many votes as he holds shares in the company, and may vote by proxy but no shareholder in arrear in respect of any call shall be entitled to vote at any meeting. 2 Geo. V. c. 31, s. 48. Shareholders in arrear not to vote.

Proxy.

51.—(1) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under the common seal or under the hand of an officer or attorney so authorized, and shall cease to be valid after the expiration of one year from the date thereof.

Qualification of proxy.

(2) No person shall act as a proxy unless he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy or has been appointed to act at that meeting as proxy for a corporation.

Not to vote on show of hands.

(3) A proxy for an absent shareholder shall not have the right to vote on a show of hands.

Form of.

(4) An instrument appointing a proxy may be according to Form 6 or such other form as may be prescribed by the by-laws of the corporation and shall not contain anything but the appointment of the proxy or a revocation of a former instrument appointing a proxy.

Revocation of.

(5) An instrument appointing a proxy may be revoked at any time. 2 Geo. V. c. 31, s. 49.

Where meetings to be held.

52. Meetings of the shareholders, directors and executive committees shall be held at the place where the head office of the company is situate except when otherwise provided by the Special Act, Letters Patent, Supplementary Letters Patent or the by-laws of the company, but shall not be held out of Ontario unless when so authorized by the Special Act, Letters Patent or Supplementary Letters Patent. 2 Geo. V. c. 31, s. 50.

PART IV.

SHARES, CALLS.

Generally.

Limit of shareholder's holding in certain cases.

53. No shareholder of a co-operative cold storage company or association to which aid has been or may hereafter be granted under the provisions of any statute, or of a cheese and butter manufacturing company carried on on the co-operative plan, shall hold shares to an amount exceeding \$1,000. 2 Geo. V. c. 31, s. 51.

Share certificate.

54.—(1) Every shareholder shall, without payment, be entitled to a certificate under the common seal of the company stating the number of shares held by him and the amount paid up thereon, but, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint shareholders shall be sufficient delivery to all.

(2) The certificate shall be *prima facie* evidence of the title of the shareholder to the shares mentioned in it. Evidence of title.
2 Geo. V. c. 31, s. 52 (1-2).

(3) Where a company issues shares in pounds sterling, francs or marks, shares previously issued in Canadian currency may, at the option of the holder, be exchanged for shares in pounds sterling, francs or marks. Shares issued in pounds sterling or francs or marks. 2 Geo. V. c. 31, s. 52 (3); 3-4 Geo. V. c. 18, s. 33 (12).

(4) For the purpose of dividends, distribution of assets, voting and all other matters relating to the amount of shares issued in pounds sterling or francs or marks, one pound sterling or twenty-five francs or twenty marks shall be calculated as five dollars. Fixed value of shares so issued. 2 Geo. V. c. 31, s. 52 (4); 3-4 Geo. V. c. 18, s. 33 (13).

(5) Shares shall include share warrants, where the company is authorized to issue the same. Shares to include share warrants. 2 Geo. V. c. 31, s. 52 (5).

55. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding twenty-five cents and on such terms, if any, as to evidence and indemnity as the directors think fit. Lost certificate. 2 Geo. V. c. 31, s. 53.

56.—(1) The shares of the company shall be deemed personal estate and shall be transferable on the books of the company in such manner and subject to such conditions and restrictions as by this Act, the Special Act, the Letters Patent, Supplementary Letters Patent or by-laws of the company may be prescribed. Shares personal estate.

(2) Subject to section 58, no by-law shall be passed which in any way restricts the right of a holder of paid up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. Restrictions on transfer. 2 Geo. V. c. 31, s. 54.

57.—(1) No transfer of shares the whole amount whereof has not been paid up shall be made without the consent of the directors. When directors' consent required.

(2) Where any such transfer is made, with the consent of the directors, to a person who is not apparently of sufficient means to fully pay up such shares, subject to subsection 3, the directors shall be jointly and severally liable to the creditors of the company in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been. Their liability if they allow transfers to persons without means.

(3) If any director present when such transfer is allowed forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such transfer, and is able to do so, enters his written protest against the same, and, Relief from liability by entering protest.

within eight days thereafter, causes such protest to be notified by registered letter to the Provincial Secretary, such director shall thereby and not otherwise exonerate himself from such liability.

Liability
where call
remains
unpaid.

(4) Where a share upon which a call is unpaid is transferred, with the consent of the directors, the transferee shall be liable for the call to the same extent and with the same liability to forfeiture of the shares, if the call remains unpaid, as if he had been the holder when the call was made, and the transferor shall remain also liable for the call until it has been paid. 2 Geo. V. c. 31, s. 55.

Refusal to
register
transfer of
shareholder
indebted to
corporation.

58. Where the Letters Patent, Supplementary Letters Patent or by-laws of a corporation confer that power on the directors, they may decline to register a transfer of shares belonging to a shareholder who is indebted to the corporation. 2 Geo. V. c. 31, s. 56.

Closing
transfer
books pending
distribution of
dividend.

59. The directors, upon the passing of a by-law authorizing the payment of a dividend upon shares, may direct that no entry of transfers shall be made in the books of the company for a period of two weeks immediately preceding the payment of such dividend, and payment thereof shall be made to the shareholders of record on the date of closing such books. 2 Geo. V. c. 31, s. 57.

Transfer valid
only after
entry.

60. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, shall, until entry thereof has been duly made, be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the company and its creditors until entry thereof has been duly made in the books of the company. 2 Geo. V. c. 31, s. 58.

Transferor
may be
notified.

61.—(1) The directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer.

Owner may
lodge caveat.

(2) Such owner may lodge a caveat against the entry of the transfer and thereupon such transfer shall not be made for a period of forty-eight hours.

Transfer may
be entered if
no order
served.

(3) If, within one week from the giving of such notice or the expiration of the period of forty-eight hours, whichever shall last expire, no order of a competent court enjoining the entry of such transfer shall have been served upon the company the transfer may be entered.

Company not
to be liable
if section
complied
with.

(4) Where a transfer is entered after the proceedings mentioned in this section the company shall, in respect of the shares so transferred, be free from liability to a person

whose rights are purported to be transferred, but without prejudice to any claim which the transferor may have against the transferee. 2 Geo. V. c. 31, s. 59.

62.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held, at such times and places and in such payments or instalments as the Special Act, the Letters Patent, Supplementary Letters Patent, this Act, or the by-laws of the company require or allow; and interest shall accrue upon the amount of any unpaid call from the day appointed for payment of such call. Calling in instalments.

(2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited. Demand to state liability to forfeiture.

(3) If, after the demand, any call is not paid within the time and in the manner provided by the Special Act, the Letters Patent, Supplementary Letters Patent or the by-laws, the directors, by resolution to that effect reciting the facts and duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made; and the same shall thereupon become the property of the company and may be disposed of as, by by-law or otherwise, the company may ordain; but such forfeiture shall not relieve the shareholder of any liability to the company or to any creditor. 2 Geo. V. c. 31, s. 60. Forfeiture of shares.

Share Warrants.

63. A company, if authorized so to do by the Special Act, the Letters Patent or Supplementary Letters Patent and subject to the provisions thereof, may, with respect to any share which is fully paid up, upon the deposit of the share certificate, if any, issue under its common seal a warrant, herein called a share warrant, stating that the bearer of the warrant is entitled to the share and may provide, by coupons or otherwise, for the payment of the future dividends on such share. 2 Geo. V. c. 31, s. 61. Issue of share warrants.

64. A share warrant shall entitle the bearer to the shares specified in it and such shares may be transferred by the delivery of the share warrant. 2 Geo. V. c. 31, s. 62. Rights of shareholders.

65. The bearer of a share warrant, subject to the provisions respecting share warrants contained in the Letters Patent or Supplementary Letters Patent, shall be entitled, on surrendering such warrant for cancellation, to have his name entered as a shareholder in the register of shareholders, and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register of shareholders the name of any bearer of a share warrant in respect of the shares specified therein without the share warrant being surrendered and cancelled. 2 Geo. V. c. 31, s. 63. Surrender of share warrants.

How far
holders of
share warrants
to be deemed
shareholders.

66. The bearer of a share warrant may, if the Letters Patent or Supplementary Letters Patent so provide, be deemed to be a shareholder of the company, either to the full extent or for such purposes as may be thereby prescribed, but he shall not be qualified, in respect of the shares specified in such warrant, to be a director where the by-laws of the company provide that a director must be the holder of a specified number of shares. 2 Geo. V. c. 31, s. 64.

Restrictions
on holders of
share warrants.

67. Except as herein otherwise expressly provided no person shall, as a bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a shareholder at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of shareholders as the holder of the shares included in the warrant, and he shall be a shareholder of the company. 2 Geo. V. c. 31, s. 65.

Entries in
register
where share
warrant
issued.

68. On the issue of a share warrant in respect of any share the company shall strike out of its register of shareholders the name of the shareholder then entered therein as holding such share as if he had ceased to be a shareholder and shall enter in the register

- (a) The fact of the issue of the warrant;
- (b) A statement of the shares included in the warrant;
- (c) The date of issue of the warrant. 2 Geo. V. c. 31, s. 66.

Compliance
with s. 118.

69. Until the warrant is surrendered the above particulars shall be deemed to be the particulars which are required by section 118 to be entered in the register of shareholders; and on the surrender of a warrant the date of such surrender shall be entered as if it were the date at which a person ceased to be a shareholder. 2 Geo. V. c. 31, s. 67.

Exercise of
privileges on
deposit of
share
warrants.

70.—(1) The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company and of attending and voting and exercising the other privileges of a shareholder at any meeting, held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of shareholders as the holder of the shares included in the deposited warrant, and the company shall, on two days' written notice, return the deposited share warrant to the depositor.

Conditions.

(2) Not more than one person shall be recognized as depositor of the share warrant. 2 Geo. V. c. 31, s. 68.

71. The directors may make rules as to the terms on which a new share warrant or coupon may be issued in case of the defacement, loss or destruction of the original. 2 Geo. V. c. 31, s. 69.

Liability of Shareholders—Execution of Trusts.

72.—(1) A company shall not be bound to see to the execution of any trust, whether express, implied or constructive to which any share is subject.

(2) The receipt of the person in whose name the same stands on the books of the company shall be a sufficient discharge to the company for any payment made in respect of such share, whether or not the company had notice of such trust.

(3) The company shall not be bound to see to the application of the money paid upon such receipt. 2 Geo. V. c. 31, s. 70.

73.—(1) An executor, administrator, guardian, trustee or committee of a lunatic shall represent the shares in his hands at all meetings of the company and may vote accordingly as a shareholder, and every person who mortgages or hypothecates his shares may nevertheless represent the same at all such meetings, and may vote accordingly as a shareholder unless, in the instrument creating the mortgage or hypothecation, he has expressly empowered the holder of such mortgage or hypothecation to vote thereon, in which case only such holder or his proxy may vote in respect of such shares.

(2) Subject to the by-laws, if shares are held jointly by two or more persons any one of them present at a meeting may, in the absence of the other or others, vote thereon, but if more than one of them are present, or represented by proxy, they shall vote together on the shares jointly held. 2 Geo. V. c. 31, s. 71.

74.—(1) Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution, but not beyond the amount so unpaid on his shares, shall be the amount recoverable against such shareholder.

(2) A shareholder may plead by way of defence, in whole or in part, any set-off which he could set up against the company, except a claim for unpaid dividend, or a salary or allowance as president or director of the company. 2 Geo. V. c. 31, s. 72.

Shareholders
not liable
beyond unpaid
amount.

75. A shareholder shall not, as such, be answerable for any act, default or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on his shares. 2 Geo. V. c. 31, s. 73.

Trustees not
personally
liable.

76.—(1) No person holding shares as executor, administrator, guardian, committee of a lunatic or trustee, of or for any estate, trust or person named in the books of the company as being so represented by him shall be personally subject to any liability as a shareholder, but the estates and funds in his hands shall be liable in like manner and to the same extent as the testator, intestate, ward, lunatic or person, interested therein would be if living and competent to act as the holder of such shares.

Liability of
beneficiary.

(2) If the trust is for a living person not under disability such person shall also be liable as a shareholder.

Where
beneficiary,
etc., not
named
trustee, etc.,
liable.

(3) If the testator, intestate, ward, lunatic or person so represented is not named in the books of the company the executor, administrator, guardian, committee or trustee shall be personally liable in respect of such shares as if he held them in his own name as owner thereof. 2 Geo. V. c. 31, s. 74.

Mortgagees
prior to
foreclosure.

77. No person holding shares as collateral security shall, prior to foreclosure, be personally subject to liability as a shareholder, but the person transferring such shares as collateral security shall, until foreclosed, be considered as holding the same, and shall be liable as a shareholder in respect thereof. 2 Geo. V. c. 31, s. 75.

PART V.

PREFERENCE AND DEBENTURE STOCK, DEBENTURES AND MORTGAGES.

By-laws for

78.—(1) The directors of a corporation may make by-laws for:—

Borrowing
money.

(a) Borrowing money;

Issuing
securities.

(b) Issuing bonds, debentures, debenture stock, both perpetual and terminable, or other securities;

Disposing of
securities.

(c) Pledging or selling such bonds, debentures or debenture stock, or other securities for such sum and at such prices as may be deemed expedient or be necessary.

By-laws for

(2) The directors of a company may make by-laws for:—

(a) Creating and issuing any part of the capital as preference shares; Creating preference shares.

(b) The conversion of preference shares into common shares or debentures or debenture stock, debentures into debenture stock or preference shares, or any class of shares or securities into any other class. Conversion of preference shares.

(3) Nothing in this section shall limit or restrict the power of a corporation to borrow money on bills of exchange, promissory notes, bills of lading, warehouse receipts or other securities of a commercial nature issued in the ordinary course of business. 2 Geo. V. c. 31, s. 76. General power of borrowing not affected.

79. No by-law for any of the purposes mentioned in the next preceding section shall take effect until it has been confirmed by a vote of shareholders present, or represented by proxy and holding not less than two-thirds of the issued capital stock represented at the meeting or by a vote of two-thirds of the members so present or represented, as the case may be, at a general meeting duly called for considering the same. 2 Geo. V. c. 31, s. 77. Confirming by-law.

80.—(1) A by-law for the creation and issue of preference shares or for the conversion of shares, debentures or debenture stock into preference shares may provide that the holders of such shares shall have such preference as regards dividends and repayment on dissolution or winding-up as may be therein set out, and the right to select a stated proportion of the board of directors, or such other control over the affairs of the company as may be considered expedient; or may limit the right of the holders thereof to specific dividends or control of the affairs of the company or otherwise, not contrary to law or to this Act, and may provide for the purchase or redemption of such shares by the company as therein set out; but any term or provision of such by-law, whereby the rights of holders of such shares are limited or restricted, shall be fully set out in the certificate of such shares, and in the event of such limitations and restrictions not being so set out they shall not be deemed to qualify the rights of holders thereof. By-law for issue of preference shares.

(2) No such by-law which has the effect of increasing or decreasing the capital of the company, or increasing the amount of the preference stock authorized by the special Act, Letters Patent or Supplementary Letters Patent of the company, or otherwise varying any term or provision thereof, shall be valid or acted upon until confirmed by Supplementary Letters Patent. 2 Geo. V. c. 31, s. 78. When confirmation by supplementary letters patent required.

81. Unless preference shares, debenture stock, debentures or bonds are issued subject to redemption or conversion the same shall not be subject to redemption or conversion without the consent of the holders thereof. 2 Geo. V. c. 31, s. 79. Consent of holders to redemption.

Mortgages to
secure debentures, etc.

82.—(1) The directors may charge, hypothecate, mortgage, or pledge any or all of the real or personal property, including book debts and unpaid calls, rights, powers, undertaking and franchises of the corporation to secure any bonds, debentures, debenture stock, or other securities, or any liability of the corporation.

Duplicate to
be filed.

(2) A duplicate original of such charge, mortgage or other instrument of hypothecation or pledge made to secure such bonds, debentures or debenture stock or other securities shall be forthwith filed in the office of the Provincial Secretary as well as registered under the provisions of any other Act in that behalf. 2 Geo. V. c. 31, s. 80.

Registration.

PART VI.

DIRECTORS AND THEIR POWERS, ETC.

First
directors.

83. The persons named as provisional directors in the Special Act or in the Letters Patent shall be the directors of the company until replaced by the same number of others duly elected in their stead by the shareholders in general meeting, which shall be held not later than two months after the coming into force of the Special Act or the date of the Letters Patent, and they shall be eligible for election. 2 Geo. V. c. 31, s. 81.

When election
to be held.

Board of
directors.

84. The affairs of the company shall be managed by a board of not less than three directors who shall be elected by the shareholders in general meeting. 2 Geo. V. c. 31, s. 82.

Business must
be transacted
by quorum
of board.

85.—(1) Except as in this section provided no business of a company shall be transacted by its directors unless at a meeting of directors at which a quorum of the board shall be present.

Majority to
constitute
quorum.

(2) Unless otherwise provided by the Letters Patent or Supplementary Letters Patent a majority of the directors shall be necessary to constitute a quorum.

Filling
vacancies
while there
is a quorum.

(3) So long as a quorum of directors remains in office vacancies in the board may be filled by such directors as remain in office.

Calling
meeting when
no quorum.

(4) Whenever there is not a quorum of directors in office it shall be the duty of the remaining directors or director forthwith to call a meeting of the shareholders to fill the vacancies, and in default the meeting may be called by any shareholder.

Calling meet-
ing when
no directors.

(5) If there are no directors remaining in office a meeting to elect directors may be called by any shareholder. 2 Geo. V. c. 31, s. 83.

86.—(1) The shareholders of a company having more than six directors may, by a resolution passed by a vote of those present or represented by proxy and holding not less than two-thirds of the issued capital stock represented at a general meeting called for that purpose, authorize the directors to delegate any of their powers to an executive committee, consisting of not less than three, to be elected by the directors from their number. Executive committee.

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulation that may be imposed upon them by such resolution or by the directors. Committee subject to regulations.
2 Geo. V. c. 31, s. 84.

87. No person shall hold office as a director unless he is a shareholder absolutely in his own right and not in arrear in respect of any call, and where any director ceases to be such a shareholder he shall thereupon cease to be a director. Qualification of directors.
2 Geo. V. c. 31, s. 85.

88. In the absence of other provisions in that behalf, in the Letters Patent or Supplementary Letters Patent or by laws of the company, Election of directors.

(a) The election of directors shall take place yearly, Yearly. and all the directors then in office shall retire, but, if otherwise qualified, they shall be eligible for re-election;

(b) Every election of directors shall be by ballot; By ballot.

(c) The directors shall, from time to time, elect from among themselves a president and, if they see fit, a vice-president of the company; and may also appoint all other officers thereof. President, vice-president and officers. R.S.C. c. 79, s. 78. 2 Geo. V. c. 31, s. 86.

89. If an election of directors is not made, or does not take effect at the proper time, the company shall not thereby be dissolved; but the election may take place at any general meeting of the company duly called for that purpose; and the directors shall continue in office until their successors are duly elected. Failure to elect directors—how remedied. 2 Geo. V. c. 31, s. 87.

90.—(1) A company may, by by-law, vary the number of its directors, but so that the number shall be not less than three, and may change the location of the head office in Ontario, and, if so authorized by the Letters Patent or Supplementary Letters Patent, fix the quorum of the board. Change by by-law of number or quorum of directors or of head office in Ontario.

(2) No such by-law shall take effect until confirmed by a vote of shareholders present or represented by proxy at a meeting duly called for considering the same and holding not less than two-thirds of the issued capital stock represented at such meeting. By-law to be confirmed by shareholders.

Publication.

(3) A copy of the by-law certified under the seal of the company shall be forthwith filed in the office of the Provincial Secretary and published in the *Ontario Gazette*; and, in case of the removal of the head office, twice in a newspaper published in the place where the head office was located and also twice in a newspaper published in the place to which the head office is to be removed or as near thereto as may be. 2 Geo. V. c. 31, s. 88.

By-laws.

91.—(1) The directors may pass by-laws, not contrary to law or to the Letters Patent or Supplementary Letters Patent or to this Act, to regulate:

Shares.

(a) The allotment of shares; the making of calls thereon; the payment thereof; the issue and registration of certificates of shares; the forfeiture of shares for non-payment; the disposal of forfeited shares and of the proceeds thereof; the transfer of shares;

Dividends.

(b) The declaration and payment of dividends;

Directors' services, etc.

(c) The amount of the share qualification of the directors and the remuneration of the directors and of the President and Vice-President;

Meetings.

(d) The time at which and place where the meetings of the company shall be held; the calling of meetings of the company; and the procedure in all things at such meetings; and except as provided by section 51 of the requirements as to proxies;

Miscellaneous.

(e) The conduct in all other particulars of the affairs of the company.

Confirmation of by-laws.

(2) Subject to the provisions of subsection 3 every such by-law and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the company duly called for that purpose, shall have force only until the next annual meeting of the company; and in default of confirmation thereat shall, at and from that time, cease to have force; and in that case no new by-law to the same or the like effect or re-enactment thereof shall have any force until confirmed at a general meeting of the company.

By-laws may be varied.

(3) The company may, either at a general meeting called for that purpose or at the annual meeting, repeal, amend, vary or otherwise deal with any by-law passed by the directors, but no act done or right acquired under any by-law shall be prejudicially affected by any such repeal, amendment, variation or other dealing. 2 Geo. V. c. 31, s. 89.

Payments to president or directors.

92. No by-law for the payment of the president or of any director shall be valid or acted upon unless passed at a general meeting, or, if passed by the directors, until the same has been confirmed at a general meeting. 2 Geo. V. c. 31, s. 90.

93.—(1) No director shall at any directors' meeting vote in respect of any contract or arrangement made or proposed to be entered into with the company in which he is interested either as vendor, purchaser or otherwise. 2 Geo. V. c. 31, s. 91 (1); 3-4 Geo. V. c. 18, s. 34 (1).

Directors not to vote on contracts in which they have a personal interest, etc.

(2) A director who may be in any way interested in any contract or arrangement proposed to be made with the company shall disclose the nature of his interest at the meeting of the directors at which such contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest, and if he discloses the nature of his interest, and refrains from voting, he shall not be accountable to the company by reason of the fiduciary relationship existing for any profit realized by such contract or arrangement; but no director shall be deemed to be in any way interested in any contract or arrangement, nor shall he be disqualified from voting or be held liable to account to the company by reason of his holding shares in any other company with which a contract or arrangement is made or contemplated. 2 Geo. V. c. 31, s. 91 (2); 3-4 Geo. V. c. 18, s. 34 (2).

No liability where interest disclosed, and refrains from voting.

(3) This section shall not apply to any contract by or on behalf of a company to give the directors or any of them security by way of indemnity. 2 Geo. V. c. 31, s. 91 (3).

Proviso.

94.—(1) The company although authorized by the Special Act, Letters Patent or Supplementary Letters Patent, or by this Act to purchase shares in any other corporation shall not do so or use any of its funds for such purpose until the directors have been expressly authorized by a by-law passed by them for the purpose, and confirmed by a vote of shareholders present or represented by proxy at a general meeting duly called for that purpose and holding not less than two-thirds of the issued capital stock represented at such meeting. 2 Geo. V. c. 31, s. 92 (1); 3-4 Geo. V. c. 18, s. 33 (14).

Not to purchase shares of other corporations unless authorized by law.

(2) This section shall not apply to a company incorporated for the purpose of carrying on the business of buying, selling or dealing in shares. 2 Geo. V. c. 31, s. 92 (2).

Not to apply to company dealing in shares.

95.—(1) The directors shall not declare or pay any dividend or bonus when the company is insolvent, or any dividend or bonus the payment of which renders the company insolvent or diminishes the capital thereof; but if any director, present when such dividend or bonus is declared, forthwith, or if any director then absent, within twenty-four hours after he has become aware thereof, and able so to do, enters his written protest against the same, and within eight days thereafter causes such protest to be notified by registered letter to the Provincial Secretary, such director may thereby, and not otherwise, exonerate himself from liability. 2 Geo. V. c. 31, s. 93 (1).

Liability of directors declaring a dividend when company is insolvent, etc.

How a director may avoid such liability.

Case of
companies
with wasting
assets.

(2) Nothing in this section shall prevent a mining company or a company whose assets are of a wasting character from declaring or paying dividends out of its funds derived from the operations of the company.

How far
capital may
be impaired.

(3) The powers conferred by subsection 2 may be exercised notwithstanding that the value of the net assets of the company may be thereby reduced to less than the par value of the issued capital stock of the company if the payment of the dividends does not reduce the value of its remaining assets so that they will be insufficient to meet all the liabilities of the company exclusive of its nominal paid-up capital.

Dividends,
how payable.

(4) A dividend may be paid by any such company distributing in specie or in kind assets of the company not exceeding in value the amount of the dividend.

Approval of
shareholders.

(5) The powers conferred by subsection 2 shall not be exercised by any such company unless under the authority of a by-law passed by the directors and confirmed at a general meeting duly called for the purpose of considering the same by a vote of the shareholders present or represented by proxy and holding not less than two-thirds of the issued capital stock represented at such meeting.

Validity of
payments.

(6) Where dividends have already been paid by such a company in any of the cases mentioned in subsection 2, the payment thereof shall be deemed valid if a by-law adopting and approving the same is passed by the directors and approved by vote of the shareholders in the manner mentioned in subsection 5. 3-4 Geo. V. c. 18, s. 33 (15).

Stock
dividends.

96. For the amount of any dividend which the directors may lawfully declare payable in money, they may declare a stock dividend and issue therefor shares of the company as fully paid or partly paid, or may credit the amount of such dividend on the shares of the company already issued but not fully paid, and the liability of the holders of such shares shall be reduced by the amount of such dividend. 2 Geo. V. c. 31, s. 94.

No loan by
company to
shareholders.

97. No loan shall be made by the company to any shareholder, and if such a loan is made all directors and other officers of the company making the same and in any wise assenting thereto shall be jointly and severally liable to the company for the amount thereof, and also to third parties to the extent of such loan with interest, for all debts of the company contracted from the time of the making of the loan to that of the repayment thereof. 2 Geo. V. c. 31, s. 95.

Liability of
directors for
wages.

98.—(1) The directors of the company shall be jointly and severally liable to the labourers, servants and apprentices thereof for all debts not exceeding one year's wages due for services performed for the company while they are such directors respectively.

(2) A director shall not be liable under subsection 1 unless 1 No liability until

(a) The company has been sued for the debt within one year after it has become due and execution has been returned unsatisfied in whole or in part; or Company sued, etc.

(b) The company has, within that period, gone into liquidation or has been ordered to be wound up and the claim for such debt has been duly filed and proved, Company in liquidation, etc.

nor unless he is sued for such debt while a director or within one year after he has ceased to be a director. Unless sued while director, etc.

(3) If execution has so issued the amount recoverable against the director shall be the amount remaining unsatisfied on the execution. Liability for amount unsatisfied on execution.

(4) If the claim for such debt has been proved in liquidation or winding-up proceedings a director, upon payment of the debt, shall be entitled to any preference which the creditor paid would have been entitled to, and where a judgment has been recovered he shall be entitled to an assignment of the judgment. 2 Geo. V. c. 31, s. 96. On payment director entitled to assignment of judgment, etc.

PART VII.

PROSPECTUS AND DIRECTORS' LIABILITY.

99.—(1) In this Part, Interpretation.

(a) "Company" shall include a company proposed to be incorporated; "Company."

(b) "Prospectus" shall mean any prospectus, notice, circular, advertisement or other invitation offering for subscription or purchase any shares, debentures, debenture stock or other securities of a company, or published or issued for the purpose of being used to promote or aid in the subscription or purchase of such shares, debentures, debenture stock or securities. 2 Geo. V. c. 31, s. 97 (1). "Prospectus."

(2) This Part, except section 102, shall apply to every company, whether formed before or after the commencement of this Act, which offers to the public for subscription shares, debentures, debenture stock or other securities and to every company, whether incorporated under the law of Ontario or otherwise, the shares, debentures, debenture stock or other securities of which are dealt in within Ontario. 2 Geo. V. c. 31, s. 97 (2); 3-4 Geo. V. c. 18, s. 33 (16). Application of this part.

When company deemed to be offering shares, etc., to the public.

(3) Where a company or any of its officers, agents or brokers, or any person employed or authorized by it for that purpose, directly or indirectly invites or solicits either orally or by a prospectus, or any other means, any other person to apply or subscribe for or to buy or otherwise acquire any shares, debentures, debenture stock or other securities of the company, or where any person who has subscribed for or underwritten or to whom has been allotted the whole or the major part of any issue of the company's shares, debentures, debenture stock or other securities so invites or solicits any person to apply or subscribe for or to buy or otherwise acquire any of such last mentioned shares, debentures, or debenture stock, the company shall be deemed to offer to the public for subscription within the meaning of this Act, its shares, debentures, debenture stock or other securities. 2 Geo. V. c. 31, s. 97 (3).

When a commission may be paid.

100.—(1) Upon any offer of shares to the public for subscription a company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such shares, if the payment of the commission and the amount or rate of the commission paid or agreed to be paid are authorized by the Letters Patent or Supplementary Letters Patent and disclosed in the prospectus, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized.

Capital not to be applied in paying commissions except as authorized.

(2) Except as provided by subsection 1 no company shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such shares, whether the shares or capital be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or be paid out of the nominal purchase money or contract price or otherwise.

Brokerage may be paid.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay. 2 Geo. V. c. 31, s. 98.

What companies must file prospectus.

101.—(1) Every public company before offering to the public for subscription shares, debentures, debenture stock or other securities shall issue a prospectus as hereinafter set out.

Purchases, subscriptions, etc., deemed to be induced by prospectus.

(2) All purchases, subscriptions or other acquisitions of shares, debentures, debenture stock or other securities of any company required to file a prospectus or a statement in lieu of a prospectus, shall be deemed, as against the company and

the signatories to the prospectus or statement, to be induced by such prospectus or statement, any term, proviso or condition thereof to the contrary notwithstanding.

(3) A subscription for shares, debentures or debenture stock shall not be binding on the subscriber unless at or before the subscription there is delivered to him a copy of the prospectus, if any, issued by the company, or if a prospectus has not been issued a copy of the statement mentioned in section 102. Delivery of copy of prospectus or statement before subscription.

(4) The subscriber to be entitled to the benefit of subsection 3 must elect to withdraw his subscription before or within ten days after notice of the allotment to him of the shares, debentures, or debenture stock for which he has subscribed. 2 Geo. V. c. 31, s. 99. Subscriber after notice must elect to withdraw.

102.—(1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares, debentures or debenture stock unless, before the first allotment, there has been filed with the Provincial Secretary, in lieu of a prospectus, a statement, Form 5, signed by every person who is named therein as a director or proposed director of the company or by his agent authorized in writing. 2 Geo. V. c. 31, s. 100 (1). Statement in lieu of prospectus.

(2) This section shall not apply to a private company or to shares subscribed for by the petitioners for the Letters Patent before the issue thereof. 2 Geo. V. c. 31, s. 100 (2); 3-4 Geo. V. c. 18, s. 33 (17). Not to apply to private company.

103.—(1) Every prospectus issued by or on behalf of a company shall be dated, and the date shall, unless the contrary is proved, be taken as the date of issue of the prospectus. Date of prospectus.

(2) A copy of every such prospectus shall be signed by every person who is named therein as a director or proposed director or provisional director of the company, or by his agent authorized in writing, and shall, together with the authority in writing verified by affidavit, be filed with the Provincial Secretary before its issue. Prospectus to be signed and filed.

(3) The Provincial Secretary shall not receive or file any prospectus unless it is so dated and signed. Not to be filed until signed, etc.

(4) No prospectus shall be issued until so filed, and every prospectus shall state on the face of it that it has been so filed. 2 Geo. V. c. 31, s. 101. Not to be issued until filed.

104.—(1) Every prospectus issued by or on behalf of a company or by or on behalf of any person who is or has been engaged or interested in the formation or promotion of the company, shall state— What to be disclosed in prospectus.

(a) The names, descriptions and addresses of the original incorporators, and the number of shares subscribed for by them respectively; Particulars as to incorporators.

3 s.—II.

Qualification
and remuneration of
directors.

(b) The number of shares, if any, fixed as the qualification of a director, and any provision in the by-laws of the company as to the remuneration of the directors;

Directors.

(c) The names, descriptions and addresses of the directors or proposed directors;

Subscription
upon which
allotment
may proceed.

(d) The minimum subscription on which the directors may proceed to allotment, and the amount payable on application and on allotment on each share; and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the next preceding two years, and the amount actually allotted, and the amount, if any, paid on the shares so allotted;

Time of
calls.

(e) The time or times at which, under the by-laws of the company, a further call or calls may be made upon shares subscribed for;

Shares and
bonds allotted
for other than
cash consideration.

(f) The number and amount of shares, debentures and debenture stock which within the next preceding two years have been issued or agreed to be issued, as fully or partly paid for, otherwise than in cash, and in the latter case the extent to which they are so paid for, and in either case the consideration for which those shares, debentures or debenture stock have been issued or are proposed or intended to be issued;

Vendors of
property to
company.

(g) The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus and the amount payable in cash, shares, debentures, debenture stock or other securities to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor, but where the vendors or any of them are a firm the members of the firm shall not be treated as separate vendors;

Consideration
for purchase.

(h) The amount, if any, paid or payable as purchase money in cash, shares, debentures, or debenture stock, or other securities, for any such property, specifying the amount, if any, payable for goodwill;

Commissions.

(i) The amount, if any, paid within the next preceding two years or payable as commission for subscribing, or agreeing to subscribe, or procuring

or agreeing to procure subscriptions for any shares in the company, or for underwriting or procuring underwriting of any securities issued or to be issued by the company or the rate of any such commission;

- (j) The amount or estimated amount of preliminary Preliminary expenses. expenses;
- (k) The amount paid within the next preceding three Promoter's remuneration. years or intended to be paid in cash, shares, debentures, debenture stock or other securities, to any promoter and the consideration for any such payment;
- (l) The date of and parties to every material contract, not Particulars as to material contracts. being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than three years before the date of issue of the prospectus, and a reasonable time and place at which such material contract or a copy thereof may be inspected;
- (m) The names and addresses of the auditors, if any, Names, etc., of auditors. of the company;
- (n) Full particulars of the nature and extent of the Interest of directors in property taken by company. interest, if any, of every director in the promotion of or in the property proposed to be acquired by the company, or where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares by any person either to induce him to become, or to qualify him as a director or otherwise for services rendered by him in connection with the promotion or formation of the company.

(2) For the purposes of this section the word "vendor" "Vendor," what to include. shall extend to and include a person who has entered into any contract, absolute or conditional, for the sale or purchase or for any option of purchase, of any property to be acquired by the company where

- (a) The purchase money is not fully paid at the date of issue of the prospectus; or
- (b) The purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or
- (c) The contract depends for its validity or fulfilment on the result of such issue.

When "vendor" includes "lessor."

(3) Where any of the property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease and the rent, and the expression "sub-purchaser" included a sub-lessee.

Requirements as to original incorporators not essential where issued more than one year after first general meeting.

(4) The requirements as to the original incorporators and the qualification, remuneration, and interest of directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date of the first general meeting.

Obligation to disclose material contracts limited.

(5) In the case of a prospectus issued more than one year after the date of such meeting the obligation to disclose all material contracts shall be limited to a period of two years next preceding the issue of the prospectus.

When prospectus advertised in newspapers.

(6) Where the prospectus is published in a newspaper it shall not be necessary to specify in the advertisement the names of the original incorporators and the number of shares subscribed for by them.

Application of section.

(7) This section shall not apply to a circular or notice inviting existing shareholders or debenture holders, or debenture stock holders of a company to subscribe for further shares, debentures or debenture stock; but, except as hereinbefore provided, this section shall apply to any prospectus whether issued on or with reference to the formation of a company or subsequently.

Waiver of compliance with section to be void.

(8) Any condition requiring or binding any applicant for shares or debentures or debenture stock, to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void. 2 Geo. V. c. 31, s. 102.

Penalty.

105.—(1) Every provisional director, director or other person responsible for the issue of a prospectus for every violation of any of the provisions of the next preceding four sections shall incur a penalty not exceeding \$200, unless

Exceptions.

- (a) As regards any matter not disclosed, he was not cognizant thereof; or
- (b) The non-compliance arose from an honest mistake of fact on his part;
- (c) In the case of non-compliance with the requirements of paragraph *n* of subsection 1 of section 104 it is proved that he had no knowledge of the matters not disclosed.

(2) Nothing in this section or the next preceding four sections shall limit or diminish any liability which any person may incur under the general law apart from this Act. Liability under general law not affected.
 2 Geo. V. c. 31, s. 103.

106.—(1) Where any advertisement, letter-head, account or document issued or published by any corporation or any of its officers, agents or employees purports to state the capital of the corporation, unless it is stated to be the authorized capital, then the capital actually and in good faith subscribed and no more shall be so stated. Capital to be correctly stated in advertisements, etc.

(2) Any such corporation, officer, agent or employee who causes to be inserted an advertisement or who publishes, issues or causes to be published or issued any advertisement, letter-head, account or document which states the capital, otherwise than as mentioned in subsection 1, or which contains any false statement as to the incorporation, control, supervision, management or financial standing of such corporation shall incur a penalty of not less than \$50 nor more than \$200. Penalty. 2 Geo. V. c. 31, s. 104.

107.—(1) Where a prospectus or notice invites subscriptions for shares in, debentures, debenture stock or other securities of a company, every person who is a director of the company at the time of the issue of the prospectus or notice, and every person who having authorized such naming of him is named in the prospectus or notice as a director of the company, or as having agreed to become a director of the company, either immediately or after an interval of time, and every promoter of the company and every person who has authorized the issue of the prospectus or notice, shall be liable to pay compensation to all persons who subscribe for any shares, debentures, debenture stock or other securities on the faith of such prospectus or notice for the loss or damage they may have sustained by reason of any untrue statement in the prospectus or notice, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved that Liability for statements in prospectus. Exceptions.

(a) Having consented to become a director of the company he withdrew his consent before the issue of the prospectus or notice, and that the prospectus or notice was issued without his authority or consent; or

(b) The prospectus or notice was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued; or

(c) After the issue of such prospectus or notice and before allotment thereunder, he, on becoming aware of any untrue statement therein, with-

drew his consent thereto, and gave reasonable public notice of such withdrawal and of the reason therefor; or

(d) With respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true; or

(e) With respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, but the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid, if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it; or

(f) With respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document.

Imp. Act,
8 Edw. VII.
c. 69, s. 84
(1), (a), (b),
(c).

Who to be
deemed a
promoter.

(2) A promoter in this section shall mean a promoter who was a party to the preparation of the prospectus or notice, or of the portion thereof containing such untrue statement, but shall not include any person by reason of his acting solely in a professional capacity for persons engaged in procuring the formation of the company. 2 Geo. V. c. 31, s. 105.

Statements
in prospectus
for raising
further
capital.

108. Where a company which has issued shares, debentures, debenture stock or other securities is desirous of obtaining further capital by subscriptions for shares, debentures, debenture stock or other securities, and for that purpose issues a prospectus or notice, no director of such company shall be liable in respect of any statement therein unless he authorized the issue of such prospectus or notice or adopted or ratified it. 2 Geo. V. c. 31, s. 106.

Indemnity
where name
of person has
been
improperly
inserted.

109. Where any such prospectus or notice contains the name of a person as a director of a company, or as having agreed to become a director thereof, and such person has not consented to become a director, or has withdrawn his consent before the issue of such prospectus or notice, and has not authorized or consented to the issue thereof, the

directors of the company, except any without whose knowledge or consent the prospectus or notice was issued, and any other person who authorized the issue of such prospectus or notice shall be liable to indemnify the person named as director of the company, or as having agreed to become a director thereof, against all damages, costs, charges and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or notice, or in defending himself against any action or legal proceedings brought against him in respect thereof. 2 Geo. V. c. 31, s. 107.

110. Every person who by reason of his being a director or named as a director, or as having agreed to become a director, or of his having authorized the issue of the prospectus or notice, has become liable to make any payment under the provisions of this Act shall be entitled to recover contribution, as in cases of contract from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of a fraudulent misrepresentation. 2 Geo. V. c. 31, s. 108.

Contribution
from co-
director.

PART VIII.

PUBLIC COMPANIES.

111. This part shall apply to all public companies except those which do not offer shares, debentures or debenture stock to the public for subscription. 2 Geo. V. c. 31, s. 109.

Application of
Part VIII.

112.—(1) No allotment shall be made of any share capital offered to the public for subscription unless

Restrictions
on allotment.
Imp. Act,
1908, s. 85.

(a) The amount, if any, named in the prospectus as the minimum subscription upon which the directors may proceed to allotment; or,

(b) If no amount is so named the whole amount of the share capital so offered for subscription

has been subscribed, and the sum payable on application for the amount so named, or for the whole amount offered for subscription has been paid to and received by the company.

(2) The amount so named and the whole amount shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

Minimum
subscription.

(3) The amount payable on application on each share shall not be less than five per centum of the nominal amount of the share.

Amount pay-
able on
application.

Repayment
where con-
ditions not
complied
with.

(4) If such conditions have not been complied with on the expiration of ninety days after the first issue of the prospectus all money received from applicants for shares shall be forthwith repaid to them without interest, and if any such money is not so repaid within one hundred days after the issue of the prospectus the directors of the company shall be jointly and severally liable to repay that money with interest from the expiration of the ninety days, but a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

Extension of
time.

(5) The Provincial Secretary may extend the times by this section limited.

Condition
as to waiving
compliance
void.

(6) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

Not to apply
to public
companies.

(7) This section, except subsection 3, shall not apply to any allotment of shares subsequent to the first allotment of shares offered by a public company. 2 Geo. V. c. 31, s. 110.

Effect of
irregular
allotment.
Imp. 1908,
s. 86.

113.—(1) An allotment made by a company to an applicant in contravention of the foregoing provisions of this Part shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

Director to
compensate
company and
allottee.

(2) If any director of a company knowingly contravenes or permits or authorizes the contravention of any of the foregoing provisions of this Part with respect to allotment he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby.

Proceedings
to be com-
menced
within two
years.

(3) No action shall be brought to recover such loss, damages or costs after the expiration of two years from the date of the allotment. 2 Geo. V. c. 31, s. 111.

Restrictions
on commence-
ment of
business.
Imp. 1908,
s. 87.

114.—(1) A company shall not commence any business or exercise any borrowing powers unless,

(a) Shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and,

(b) Every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered by a public company; and,

- (c) There has been filed with the Provincial Secretary a statutory declaration by the secretary or one of the directors in the prescribed form that such conditions have been complied with and the Provincial Secretary has certified as provided by subsection 2.

(2) The Provincial Secretary may, on the filing of the statutory declaration, certify that the company is entitled to commence business, and the certificate shall be conclusive evidence that the company is so entitled, but upon it being shown that the certificate was made upon any false statement or upon the withholding of any material statement the Provincial Secretary may cancel and annul such certificate.

Certificate that company may commence business.

Cancellation of certificate.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

Effect of contracts previously made.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares, debentures, or debenture stock or the receipt of any money payable on any application.

Simultaneous offer of shares and debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section every person who is responsible for the contravention shall, without prejudice to any other liability, incur a penalty not exceeding \$50 for every day during which the contravention continues.

Penalty for commencing business before proper time.

(6) Where a company has commenced business without having complied with the requirements of subsection 1 of section 108 of *The Ontario Companies Act, 1907*, and the Lieutenant-Governor in Council is satisfied that the non-compliance was due to inadvertence, error or mistake, and that before commencing business the conditions mentioned in clauses (a) and (b) of that section had been complied with, he may authorize the company to file the statutory declaration *nunc pro tunc*, and if it is filed within one month after the date of the Order in Council it shall have the same effect as if it had been filed before the company commenced business. 2 Geo. V. c. 31, s. 112.

Innocent non-compliance with 7 Edw. VII. c. 34, s. 108.

115. All sums received by the company or by any promoter, director, officer or agent thereof shall be held in trust by the company or such promoter, director, officer or agent until deposited in a chartered bank to the credit of the company and shall be so deposited and there remain in trust until the issue of the certificate by the Provincial Secretary. 2 Geo. V. c. 31, s. 113.

Monies to be held in trust.

Return of
allotments.

Imp. Act,
1908, s. 88.

116.—(1) Where a company makes any allotment of its shares it shall, within two months thereafter, file with the Provincial Secretary:

- (a) A return of the allotments, stating the number and nominal amount of the shares comprised in each allotment, the names, addresses and descriptions of the allottees, and the amount, if any, paid or due and payable on each share; and
- (b) In the case of shares allotted in whole or in part for a consideration other than cash, a contract in writing constituting the title of the allottee to such allotment, together with any contract of sale, or for services or other consideration in respect of which such allotment was made and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

Penalty for
default.

(2) If default is made in complying with the requirements of this section every director, manager, secretary or other officer of the company who is knowingly a party to the default shall incur a penalty not exceeding \$50 for every day during which the default continues. 2 Geo. V. c. 31, s. 114.

Statutory
meetings.

117.—(1) Every company shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of its shareholders, which shall be called the statutory meeting.

[As to notice of meetings, see section 44.]

Report to be
sent to share-
holders.

(2) The directors shall, at least ten days before the day on which the meeting is to be held, send to every shareholder a report certified by not less than two directors stating:

- (a) The total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) The total amount of cash received by the company in respect of such shares so distinguished;
- (c) An abstract of the receipts and payments of the company on capital account to the date of the report, and an account or estimate of the preliminary expenses of the company;
- (d) The names, addresses and descriptions of the directors, auditors, if any, manager, if any, and secretary of the company; and

- (e) The particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(3) The report, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, shall be certified as correct by the auditors, if any, of the company. Report to be certified by auditors.

(4) The directors shall cause a copy of the report so certified to be filed with the Provincial Secretary forthwith after the sending thereof to the shareholders. Report to be filed with Provincial Secretary.

(5) The directors shall cause a list showing the names, descriptions and addresses of the shareholders and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any shareholder during the continuance of the meeting. Lists of shareholders to be produced at meeting.

(6) The shareholders present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the report, whether previous notice has or has not been given, but no resolution of which notice has not been duly given may be passed. Shareholders may discuss business of company at meeting.

(7) The meeting may be adjourned from time to time, and at an adjourned meeting any resolution of which notice has been duly given, either before or subsequently to the former meeting, may be passed, and at the adjourned meeting the same powers may be exercised as at an original meeting. Adjournments.

(8) If default is made in filing such report or in holding the statutory meeting, then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may apply to the Court for the winding up of the company, and the Court may either direct that the company be wound up or give directions for the report being filed or a meeting being held, or make such other order as may be deemed just, and may order that the costs of the application be paid by any person who, in the opinion of the Court, is responsible for the default. 2 Geo. V. c. 31, s. 115. Application to Court if default made in holding meeting.

PART IX.

BOOKS, INSPECTION AND AUDITORS.

118. The corporation shall cause the secretary, or some other officer specially charged with that duty, to keep a book or books wherein shall be kept recorded:— Record books to be kept and contents.

- (a) A copy of the Letters Patent and of any Supplementary Letters Patent issued to the corporation and,

if incorporated by Special Act, a copy of such Act, and the by-laws of the corporation duly authenticated;

(b) The names, alphabetically arranged, of all persons who are or who have been shareholders or members of the corporation;

(c) The post office address and calling of every such person while such shareholder or member;

(d) The names, post office addresses and callings of all persons who are or have been directors of the corporation, with the date at which each person became or ceased to be such director;

And in the case of a corporation having share capital—

(e) The number of shares held by each shareholder;

(f) The amounts paid in, and remaining unpaid respectively, on the shares of each shareholder;

(g) The date and other particulars of all transfers of shares in their order. 2 Geo. V. c. 31, s. 116.

Books to be kept at head office.

119.—(1) The books mentioned in the next preceding section and in section 124, shall be kept at the head office of the corporation within Ontario, whether the company is permitted to hold its meetings out of Ontario or not.

Penalty for removal.

(2) Any director, officer or employee of a corporation who removes or assists in removing such books from Ontario or who otherwise contravenes the provisions of this section shall incur a penalty of \$200.

Proviso.

(3) Upon necessity therefor being shown and adequate assurance given that such books may be inspected within Ontario by any person entitled thereto after application for such inspection to the Provincial Secretary the Lieutenant-Governor in Council may relieve any corporation permitted to hold its meetings out of Ontario from the provisions of this section upon such terms as he may see fit. 2 Geo. V. c. 31, s. 117.

Untrue entries.

120.—(1) No director, officer or employee of the corporation shall knowingly make or assist in making any untrue entry in any of its books, or refuse or neglect to make any proper entry therein.

Penalty.

(2) Any person wilfully violating the provisions of this section shall be liable in damages for all loss or injury which any person interested may have sustained thereby. 2 Geo. V. c. 31, s. 118.

Powers of Judge as to entries in, omissions from and rectification of books.

121.—(1) If the name of any person is, without sufficient cause, entered in or omitted from any such book, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or share-

holder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the Supreme Court, for an order that the book or books be rectified, and the Court may either refuse such application or may make an order for the rectification of the book, and may direct the corporation to pay any damages the party aggrieved may have sustained.

(2) The Court may, in any proceeding under this section, decide any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from such books, whether such question arises between two or more shareholders, or alleged shareholders, or members, or between any shareholder or alleged shareholder or member and the corporation, and the Court may in any such proceeding decide any question which it may be necessary or expedient to decide for the rectification of the books. Decision as to title.

(3) The Court may direct an issue to be tried. Trial of issue.

(4) An appeal shall lie from the decision of the Court as if the same had been given in an action. Appeal.

(5) This section shall not deprive any Court of any jurisdiction it may otherwise have. Jurisdiction of Courts not affected.

(6) The costs of any proceeding under this section shall be in the discretion of the Court. 2 Geo. V. c. 31, s. 119. Costs.

122.—(1) The books mentioned in section 118 shall, during reasonable business hours of every day, except holidays, be kept open for the inspection of shareholders, members and creditors of the corporation and their personal representatives or agents, at the head office or chief place of carrying on its undertaking, and every such shareholder, member, creditor, agent or representative, may make extracts therefrom. Books to be open for inspection.

(2) Any director or officer who refuses to permit any person entitled thereto to inspect such books, or make extracts therefrom, shall incur a penalty not exceeding \$100. 2 Geo. V. c. 31, s. 120. Liability for refusal to allow inspection of books.

123. Such books shall be *prima facie* evidence of all facts purporting to be therein stated in any action or proceeding against the corporation or against any shareholder or member. 2 Geo. V. c. 31, s. 121. Books to be prima facie evidence.

124. The directors shall cause proper books of account to be kept containing full and true statements of:— Books of account to be kept.

(a) The financial transactions of the corporation;

(b) The assets of the corporation;

(c) The sums of money received and expended by the corporation, and the matters in respect of which such receipt or expenditure took place;

(d) The credits and liabilities of the corporation; and

And minute
books.

a book or books containing minutes of all the proceedings and votes of the corporation, or of the board of directors, respectively, verified by the signature of the president or other presiding officer of the corporation. 2 Geo. V. c. 31, s. 122.

False returns,
etc.

125. If any person in any return, report, certificate, balance-sheet or other document required by or for the purposes of this Act wilfully makes a statement false in any material particular he shall be liable to imprisonment for a term not exceeding three months, and shall incur a penalty not exceeding \$100 in lieu of or in addition to such imprisonment. 2 Geo. V. c. 31, s. 123.

Penalty.

The Court
may appoint
an inspector
to make
investigation.

126.—(1) Upon an application by not less than one-fifth in value of the shareholders of a corporation with share capital, or one-fifth in number of the members of a corporation without share capital, the Supreme Court may appoint an inspector to investigate its affairs and management.

Report on
and expense of
investigation.

(2) Such inspector shall report thereon to the Court, and the expense of such investigation shall, in the discretion of the Court, be defrayed by the corporation or by the applicants, or partly by the corporation and partly by the applicants.

Security for
costs.

(3) The Court may require the applicants to give security to cover the probable cost of the investigation, and may make rules and prescribe the manner in which and the extent to which the investigation shall be conducted.

Corporation
may appoint
for same
purpose.

(4) A corporation may, by resolution passed at the annual meeting, or at a special general meeting called for that purpose, appoint an inspector to examine into the affairs of the corporation.

Powers and
duties of
inspector.

(5) The inspector so appointed shall have the same powers and perform the same duties as an inspector appointed by the Supreme Court, and he shall make his report in such manner and to such persons as the corporation by resolution directs.

Production of
books and
documents.

(6) All officers and agents of the corporation shall produce for the examination of any inspector appointed under this section all books and documents in their custody or power.

Examination
on oath.

(7) Any such inspector may examine upon oath the officers, agents and employees of the corporation in relation to its business.

Penalty for
non-pro-
duction.

(8) If any officer or agent refuses to produce any such book or document, or if any person so examined refuses to answer any question relating to the affairs of the corporation, he shall incur a penalty not exceeding \$20 for each offence. 2 Geo. V. c. 31, s. 124.

127. The accounts of a corporation shall be examined ^{Annual audit.} once at least in every year, and the correctness of the balance-sheet shall be ascertained by an auditor or auditors. 2 Geo. V. c. 31, s. 125.

128. The first auditors of a corporation may be appointed ^{First auditors.} by the directors before the first meeting of the shareholders or members, and shall hold office until the first general meeting. 2 Geo. V. c. 31, s. 126.

129. Thereafter the auditors shall be appointed by resolution at a general meeting of the corporation and shall hold office until the next annual meeting unless previously removed by a resolution of the shareholders or members in general meeting. 2 Geo. V. c. 31, s. 127. ^{Subsequent auditor.}

130. The auditors may be shareholders or members of the corporation, but no person shall be eligible as an auditor who is interested, otherwise than as a shareholder or member, in any transaction of the corporation; and no director or other officer of the corporation shall be eligible during his continuance in office. 2 Geo. V. c. 31, s. 128. ^{Auditors may be shareholders.}

131. If an appointment of auditors is not made at an annual meeting the Provincial Secretary, on the application of any shareholder or member of the corporation, may appoint an auditor for the current year and fix the remuneration, if any, to be paid to him by the corporation for his services. 2 Geo. V. c. 31, s. 129. ^{In default, Provincial Secretary may appoint.}

132. The directors of a corporation may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act, and any auditor shall be eligible for reappointment. 2 Geo. V. c. 31, s. 130. ^{Directors may fill casual vacancy.}

133. The remuneration of the auditors shall be fixed by the corporation in general meeting, except that the remuneration of any auditors appointed before the first general meeting or to fill any casual vacancy may be fixed by the directors. 2 Geo. V. c. 31, s. 131. ^{Remuneration of auditors.}

134.—(1) Every auditor shall have the right of access at all times to the books, accounts and vouchers of the corporation, and may require from the directors and officers of the corporation such information and explanation as may be necessary for the performance of his duties. ^{Rights and duties of auditors.}

(2) The auditors shall sign a certificate at the foot of the balance-sheet stating whether or not their requirements as auditors have been complied with, and shall make a report to the shareholders or members on the accounts examined by them, and on every balance-sheet laid before the corporation in general meeting during their tenure of office; and in ^{Certificate and report.}

every such report shall state whether, in their opinion, the balance-sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the corporation's affairs as shown by its books.

Reading at
general
meeting.

(3) Such report shall be read at the general meeting.
2 Geo. V. c. 31, s. 133.

PART X.

MISCELLANEOUS.

Annual sum-
mary of the
affairs of the
company.

135.—(1) Every corporation shall, on or before the first day of February in every year, make out a summary, verified as hereinafter required, containing as of the thirty-first day of December next preceding, correctly stated, the following particulars:—

Contents of
summary.

- (a) The corporate name of the corporation;
- (b) The manner in which the corporation is incorporated, whether by special Act, or by Letters Patent, and the date thereof;
- (c) The names, residences and post office addresses of the president, secretary, and treasurer of the corporation;
- (d) The name, residence and post office address of each of the directors of the corporation;
- (e) The date upon which the last annual meeting of the corporation was held;

And in the case of a corporation having share capital, in addition,

- (f) The place of the head office, giving street and number when possible;
- (g) The amount of the capital of the corporation and the number of shares into which it is divided;
- (h) The number of shares subscribed for and allotted;
- (i) The number of shares, if any, issued as fully paid up shares as consideration for any transfer of assets, good will or otherwise; if none are so issued, this fact to be stated;
- (j) The amount of calls made on each share;
- (k) The total amount of calls received;
- (l) The total amount of shares forfeited;
- (m) The total amount of shares issued as preference shares and the rate of dividend thereon;

- (n) The total amount paid on such shares;
- (o) The total amount of debentures, debenture stock or bonds authorized, and the rate of interest thereon;
- (p) The total amount of debentures, debenture stock or bonds issued;
- (q) The total amount realized from debentures, debenture stock, and bonds;
- (r) The total number and amount of share warrants issued, and the names, residences and post office addresses of the persons to whom the same were issued;

If the corporation is a mining company to which Part XI. is made applicable,

- (s) The number of shares sold or otherwise disposed of at a discount or premium;
- (t) The rate at which such shares were sold or disposed of;
- (u) Whether a sworn copy of the by-laws, if any, providing for the sale of shares at a discount or otherwise, was sent to the Provincial Secretary;
- (v) The date, or dates upon which such by-laws, if any, were passed and confirmed.

(2) In the case of a corporation having share capital, the summary shall also contain a list, alphabetically arranged, of the persons who, on the 31st day of December next preceding, were shareholders of the company, and the residence and post office address of each such person; the number of shares held by each; and the amount, if any, unpaid thereon.

List of share-holders.

(3) A duplicate of such summary with the affidavit of verification shall be posted up in a conspicuous position in the head office of the corporation on or before the 2nd day of February in each year, and may be inspected by any shareholder or creditor of the corporation; and the company shall keep the same so posted until another summary is posted up under the provisions of this Act.

Posting of summary.

(4) The summary of every corporation shall be verified by the affidavit of the president and secretary, and if there are no such officers, or they, or either of them, are, or is, at the proper time out of Ontario or otherwise unable to make the same, by the affidavit of the president or secretary and one of the directors, or two of the directors, as the case may require; and if the president or secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit.

Verification thereof.

(5) The summary so verified shall, on or before the 8th day of February next after the time hereinbefore prescribed

Transmission to Provincial Secretary.

for making the summary, be transmitted to the Provincial Secretary.

Penalty for default.

(6) If a corporation makes default in complying with the provisions of this section, the corporation shall incur a penalty of \$20 for every day during which the default continues, and every director, manager or secretary of the corporation, who wilfully authorizes or permits such default, shall incur the like penalty, but such penalties shall be recoverable only by action at the suit of the Crown, or of a private person suing on his own behalf with the written consent of the Attorney-General.

When section not to apply.

(7) A corporation shall not be required to comply with the provisions of this section in the calendar year in which it was organized or went into actual operation, whichever first happened.

Corporations incorporated before 1st July, 1907, etc.

7 Edw. VII. c. 34.

(8) Corporations incorporated before the 1st day of July, 1907, under any Act repealed by *The Ontario Companies Act*, (1907), except chapter 191 of the Revised Statutes of Ontario, 1897, and Acts consolidated therewith for which that Act was substituted, shall make such returns under this section as are required from corporations without share capital. 2 Geo. V. c. 31, s. 134.

Return to Provincial Secretary of change of directors, etc.

136. Every company shall make a return to the Provincial Secretary from time to time, as the same occur, of all changes among the directors, and shall incur a penalty, not exceeding \$20 for every contravention of this section. 2 Geo. V. c. 31, s. 135.

Return may be required upon any subject.

137. The Provincial Secretary may, whenever he sees fit, require a corporation to make a return upon any subject connected with its affairs, and the corporation shall make the return within the time mentioned in the notice requiring the same. 2 Geo. V. c. 31, s. 132.

Fees on letters patent, etc., to be fixed by Order-in-Council.

138.—(1) The Lieutenant-Governor in Council may establish, alter and regulate the tariff of fees to be paid on applications, returns, filings and all transactions under this Act; and may prescribe the form of proceedings and record in respect thereof, and all other matters which he may deem requisite for carrying out the objects of this Act.

Fees may vary in amount.

(2) Such fees may be made to vary in amount, having regard to the nature of the corporation, amount of capital and otherwise, as may be deemed expedient.

Restriction.

(3) No step shall be taken towards the issue of any Letters Patent or Supplementary Letters Patent or the filing of any document under this Act, until all fees therefor and all fees due for any other service have been duly paid. 2 Geo. V. c. 31, s. 136.

139. No tender or transmission of any return, by-law or other document shall be a due compliance with the provisions of this Act unless and until the prescribed fee for receiving and filing the same has been paid to and has been accepted by the Provincial Secretary. 2 Geo. V. c. 31, s. 137.

No compliance with Act to file returns, etc., without payment of fees.

140. A copy of any by-law of a corporation under its seal and purporting to be signed by any officer of the corporation or a certificate, similarly authenticated, to the effect that a person is a shareholder or member of the corporation, and that dues or other sums payable are due and have not been paid or that a call or assessment has been made, is due and has not been paid, shall be received as *prima facie* evidence of the by-law or of the statements contained in such certificate in all Courts. 2 Geo. V. c. 31, s. 138.

Evidence of by-laws.

141. A document or proceeding requiring authentication by a corporation may be signed by any director, manager or other authorized officer of the corporation, and need not be under its seal. 2 Geo. V. c. 31, s. 139.

Authentication of summons and notices.

142. A notice or demand to be served or made by a corporation upon a shareholder or member may be served or made either personally or by registered post, addressed to the shareholder or member at his place of abode as it last appeared on the books of the corporation. 2 Geo. V. c. 31, s. 140.

Service of notices.

143. A notice or other document served by post by a corporation on a shareholder or member shall be deemed to be served at the time when it would be delivered in the ordinary course of post. 2 Geo. V. c. 31, s. 141.

Time of service.

144. Any by-law by this Act requiring confirmation by the shareholders or members of the corporation may in lieu of confirmation at a general meeting be confirmed by the consent in writing of all the shareholders or members. 2 Geo. V. c. 31, s. 142.

Sanctioning by-laws by written consent of all shareholders.

145. Proof of any matter which may be necessary to be made under this Act may be made by statutory declaration, affidavit, or deposition before the Provincial Secretary, or any officer to whom the matter may be referred by him, or before any person authorized to take affidavits. 2 Geo. V. c. 31, s. 143.

Proof of matters under this Act.

PART XI.

MINING COMPANIES.

146. A mining company incorporated before the first day of July, 1907, or thereafter incorporated under *The Ontario Companies Act* (1907), or under *The Ontario Companies Act* (1912), or under this Act, and made by the Letters Patent subject to the provisions of this Part, may issue its shares at

Issuing shares at a discount. 7 Edw. VII. c. 34. 2 Geo. V. c.

a discount or at any other rate in the manner hereinafter prescribed. 2 Geo. V. c. 31, s. 144.

Shareholders
not personally
liable for
calls.

147. No shareholder of such a company holding shares, issued as herein provided, shall be personally liable for non-payment of any calls made upon his shares beyond the amount agreed to be paid therefor. 2 Geo. V. c. 31, s. 145.

By-law au-
thorizing
issue of
shares at a
discount.

148. No shares shall be issued at a discount unless authorized by a by-law of the company fixing and declaring the rate and any other terms and conditions of the issue, confirmed at a general meeting of the shareholders duly called for considering the same. 2 Geo. V. c. 31, s. 146.

Verified copy
of by-law to
be transmitted
to Provincial
Secretary.

149. A copy of such by-law, within twenty-four hours after the same has been confirmed, shall be transmitted by registered post to the Provincial Secretary, or be filed in his office within five days, and such copy shall be verified as a true copy by the joint affidavit of the president and secretary, and if there are no such officers, or they, or either of them, are, or is, at the proper time unable to make the same, by the affidavit of the president or secretary and one of the directors, or of two of the directors, as the case may require; and if the president or secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit. 2 Geo. V. c. 31, s. 147.

What notice to
appear on
documents
issued by
company.

150. Every such company shall have written or printed, immediately after or under its name, wherever such name is used by the company or by any director, officer, servant or employee thereof, and shall have engraved upon its seal the words "NO PERSONAL LIABILITY"; and upon every share certificate issued by the company, distinctly written or printed in red ink, where such share certificates are issued in respect of shares subject to call, the words "SUBJECT TO CALL"; or, if in respect to shares not subject to call, the words "NOT SUBJECT TO CALL," according to the fact. 2 Geo. V. c. 31, s. 148.

Sale of
shares on
non-payment
of calls.

151.—(1) In the event of any call on shares of such a company remaining unpaid by the holder thereof for a period of sixty days after notice and demand of payment, such shares may be declared to be in default, and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash by giving notice of such sale in a newspaper published at the place where the principal office of the company is situate, or if no newspaper is published there, then in a newspaper published at the nearest place to such office, once a week for four successive weeks.

Notice
of sale.

Contents of.

(2) The notice shall contain the numbers of the share certificates in respect of such shares and the number of shares, the amount of the call or calls due and unpaid and the time and place of sale.

(3) In addition to the publication of the notice, it shall be personally served upon such shareholder or sent to him by registered post addressed to him at his last known place of abode. Service and publication.

(4) If the holder of such shares fails to pay the amount due thereon, with interest and the cost of advertising, before the time fixed for such sale, the secretary shall proceed to sell the same, or such portion thereof as shall suffice to pay such calls together with interest and the cost of advertising and of the sale. Sale in default of payment.

(5) If the price of the shares so sold exceeds the amount due with interest and costs, the excess shall be paid to the defaulting shareholder on demand. Surplus of proceeds. 2 Geo. V. c. 31, s. 149.

152.—(1) A company which acts in contravention of any provision of this Part and every director, manager or officer thereof shall incur a penalty of \$200. Penalty.

(2) A director, manager or officer who proves that he was not a party or privy to the act, and that when he became aware of it he forthwith gave notice thereof to the Provincial Secretary, shall not be liable to the penalty imposed by this section. Relief from penalty. 2 Geo. V. c. 31, s. 150.

PART XII.

COMPANIES OPERATING MUNICIPAL FRANCHISES AND PUBLIC UTILITIES.

Incorporation and Powers.

153. This Part shall apply to all applications for incorporation of companies intended to operate or control any public or municipal franchise, undertaking or utility and which may require for its purposes the erection of any permanent structure in or upon any highway, stream or adjoining navigable waters, and to such companies when incorporated. Application of this Part of Act. 2 Geo. V. c. 31, s. 151.

154. With the application for incorporation the applicants shall produce to the Provincial Secretary: Material to be produced on application.

(a) Evidence that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated; that such capital has been subscribed or underwritten, and that the applicants are likely to command public trust and confidence in the undertaking;

(b) A detailed description of the plant, works and intended operations of the company, and an estimate of their cost;

- (c) A by-law of every municipality in which the operations of the company are to be carried on, authorizing the execution thereof in the manner set out in such detailed description, where the consent of the council of the municipality is required by law to authorize the company to carry on its operations therein;
- (d) If the undertaking is to be carried on, or in so far as it is to be carried on, in territory without municipal organization, a report from the Minister of Lands, Forests and Mines approving of the undertaking;
- (e) If it is proposed that the company shall acquire any plant, works, land, undertaking, good will, contract or other property or assets, a detailed statement of the nature and value thereof;
- (f) Such further information as the Provincial Secretary may require. 2 Geo. V. c. 31, s. 152.

Referring application to engineers, etc., for report.

155. The Provincial Secretary may refer the application and all statements, evidence and material filed thereon to engineers, architects, valuers or other experts for consideration, investigation and report regarding the public necessity for the undertaking, the amount of capital required therefor, the value of any plant, works, lands, undertaking, good-will, contract or other property or assets to be acquired and any other matter which may appear to be in the public interest regarding the undertaking. 2 Geo. V. c. 31, s. 153.

Letters Patent to be issued on Order-in-Council.

156. All Letters Patent and Supplementary Letters Patent of companies to which the provisions of this Part apply and of all companies heretofore incorporated for any of the purposes mentioned in section 153, shall be issued on the authority of the Lieutenant-Governor in Council, and such Letters Patent or Supplementary Letters Patent may be issued in terms and on conditions different from those applied for. 2 Geo. V. c. 31, s. 154.

Notice of application.

157. Notice of the application shall be published in such manner and shall be given to such persons as the Provincial Secretary may determine. 2 Geo. V. c. 31, s. 155.

Limitations in charter.

158. The Letters Patent or Supplementary Letters Patent, may limit the term of the existence of the company, the rate of dividend payable on the shares of the capital stock, the amount which the company may borrow on debentures, debenture stock, mortgages or other securities and the rate of interest thereon. 2 Geo. V. c. 31, s. 156.

Proofs, etc., to be produced on application for Supplementary Letters Patent.

159. Upon an application for Supplementary Letters Patent extending the powers, increasing the capital or otherwise varying any term of the Letters Patent the company shall produce such evidence and statements as are referred to in section 154, and he may refer the same in the manner and for the purposes set out in section 155. 2 Geo. V. c. 31, s. 157.

160. The Supplementary Letters Patent may fix the conditions upon which any shares, debentures, debenture stock or other securities of the company, therein authorized to be issued, may be allotted, sold or otherwise disposed of, and may be issued in terms and on conditions different from those applied for, and may vary any term or condition of the application. 2 Geo. V. c. 31, s. 158.

Supplementary Letters Patent, what may be contained in.

161. No provision contained in this Part or in the Letters Patent or Supplementary Letters Patent regarding the issue of debentures or other securities or the making of mortgages to secure the same shall in any way prejudice the right which any municipality may have to acquire or take possession of the plant and undertaking of the company. 2 Geo. V. c. 31, s. 159.

Rights of municipality preserved.

162.—(1) The company may pass by-laws regarding the control and management of its undertaking, its dealings with the public, the collection of tolls, charges, rates or levies for the public service given by the company, and for the use, protection and care of its property while being used, enjoyed or otherwise subject to public use; but no such by-laws shall have any force or effect or be acted upon until approved by the Lieutenant-Governor in Council and notice of the approval has been published four times in a public newspaper published at the place where the undertaking of the company is carried on, or as near thereto as may be, and in the *Ontario Gazette*, unless such publication is dispensed with by the Minister. 2 Geo. V. c. 31, s. 160 (1); 3-4 Geo. V. c. 18, s. 34 (3).

Company may pass by-laws for control, etc., of undertaking.

(2) Every person who contravenes any of the provisions of any such by-law shall incur a penalty not exceeding \$20. 2 Geo. V. c. 31, s. 160 (2).

Penalty.

163. In addition to the other returns which are required by this or any other Act the company shall on or before the 8th day of February in each year make a report to the Provincial Secretary, verified as provided by subsection 4 of section 135, which shall specify

Additional returns.

- (a) The cost of the work, plant and undertaking of the company;
- (b) The amount of its capital, and the amount paid thereon;
- (c) The amount received during the year from tolls, levies, rates and charges and all other sources, stating each separately;
- (d) The amount and rate of dividends paid;
- (e) The amount expended for repairs; and
- (f) A detailed description of any extension or improvement of the works or of any new works proposed

to be undertaken in the current year, together with an estimate of the cost thereof. 2 Geo. V. c. 31, s. 161.

Inspection
of books.

164. The Provincial Secretary may appoint a person to inspect and examine the books of account of the company, and every person so appointed may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the president and each of the directors of the company, and all the other officers and servants thereof, all such information as to such books and the affairs of the company generally as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the company so as to enable him to ascertain the correctness of statements furnished by the company. 2 Geo. V. c. 31, s. 162.

Existence of
company may
be extended
by supplement-
ary letters
patent.

165. The Lieutenant-Governor in Council may, by Supplementary Letters Patent, extend the term of existence of any company incorporated for a limited period under this or heretofore incorporated under any other general Act for such further period as by Order-in-Council, made previous to the expiry of such period, he may direct, and the provisions of this Act relating to the expiration of the term of existence of a company shall thereupon apply to such term as so extended. 2 Geo. V. c. 31, s. 163.

Expropriation.

Powers of
expropriation.

166.—(1) A company to which this section is made applicable by the Letters Patent or Supplementary Letters Patent may take, without the consent of the owner thereof, such lands and easements as may be necessary for the purposes of its undertaking, in like manner, as under the provisions of *The Ontario Railway Act*, lands may be expropriated for the purpose of a railway; but any such right of expropriation may be limited or the application of any section of that Act may be excluded.

Rev. Stat.
c. 185.

Application
of section.

(2) This section shall apply to a company heretofore incorporated under any general or special Act. 2 Geo. V. c. 31, s. 164.

PART XIII.

WINDING UP OF COMPANIES.

Generally.

Nature of lia-
bility of con-
tributory.

167. The liability of any person to contribute to the assets of a corporation under this Act, in the event of the same being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability. 2 Geo. V. c. 31, s. 165.

168. If a contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees shall be liable in due course of administration to contribute to the assets of the corporation in discharge of the liability of such deceased contributory and shall be deemed to be contributories accordingly. 2 Geo. V. c. 31, s. 166.

Who liable
in case of
his death.

Voluntary Winding up.

169. A corporation may be wound up voluntarily

- (a) Where the period, if any, fixed for the duration of the corporation by the Act, Letters Patent or instrument of incorporation, or by Supplementary Letters Patent has expired; or where the event, if any, has occurred, upon the occurrence of which it is provided by the Act or Letters Patent or instrument of incorporation or by Supplementary Letters Patent that the corporation is to be dissolved, and the corporation in general meeting has passed a resolution requiring the corporation to be wound up;
- (b) Where the corporation, in general meeting called for that purpose, has passed a resolution requiring the corporation to be wound up;
- (c) Where the corporation, though it may be solvent as respects creditors, has passed a resolution in general meeting to the effect that it has been proved to its satisfaction that the corporation cannot, by reason of its liabilities, continue its business and that it is advisable to wind it up.

Voluntary
winding up.

170. A winding up shall be deemed to commence at the time of the passing of the resolution authorizing the winding up. 2 Geo. V. c. 31, s. 168.

Commence-
ment of
winding up.

171. Whenever a corporation is wound up voluntarily the corporation shall, from the date of the commencement of such winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof; and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alterations in the status of the shareholders or members of the corporation, taking place after the commencement of such winding up, shall be void; but its corporate state and all its corporate powers, notwithstanding that it is otherwise provided by its constituting instrument or by-laws, shall continue until the affairs of the corporation are wound up. 2 Geo. V. c. 31, s. 169.

Corporation
to cease busi-
ness.

172. Notice of any resolution passed for winding up a corporation voluntarily shall be given by advertisement in the *Ontario Gazette*, and shall be filed in the office of the Provincial Secretary. 2 Geo. V. c. 31, s. 170.

Publication
of notice of
winding up.

No proceedings against corporation after winding up.

Except by leave.

Exception.
R.S.C. 1906,
c. 144.

Consequences of winding up.

Application of assets.

Priority of claims of certain employees to what extent.

Appointment of liquidator and remuneration.

Idem.

Powers of directors to cease.

Powers to be exercised by liquidators.

Settlement of list of contributories.

173.—(1) After the commencement of the winding up, no action or other proceeding shall be proceeded with or commenced against the corporation, and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation, except by leave of the Court and subject to such terms as the Court may impose.

(2) This section shall not apply to any proceeding taken under *The Winding-up Act of Canada*, or other Act respecting Insolvency or Bankruptcy for the time being in force. 2 Geo. V. c. 31, s. 171.

174. Upon a voluntary winding up:

- (a) The property of the corporation shall be applied in satisfaction of all its liabilities *pari passu*, and, subject thereto, shall, unless it is otherwise provided by the by-laws of the corporation, be distributed rateably amongst the shareholders or members according to their rights and interests in the corporation;
- (b) In distributing the assets of the corporation, the salary or wages of all clerks and wage-earners in the employment of the corporation due at the date of the commencement of the winding up or within one month before, not exceeding three months' salary or wages, shall be paid in priority to the claims of the ordinary general creditors, and such persons shall be entitled to rank as ordinary or general creditors for the residue of their claims;
- (c) The corporation in general meeting shall appoint such person or persons as it thinks fit to be a liquidator or liquidators for the purpose of winding up the affairs of the corporation and distributing its property, and shall fix the remuneration to be paid to him or them;
- (d) If one person only is appointed all the provisions in reference to several liquidators shall apply to him;
- (e) Upon the appointment of liquidators all the powers of the directors shall cease except in so far as the corporation in general meeting or the liquidators may sanction the continuance of such powers;
- (f) Where several liquidators are appointed every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two;
- (g) The liquidators shall settle the list of contributories, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories;

- (h) The liquidators may at any time after the passing of the resolution for winding up, and before they have ascertained the sufficiency of the assets of the corporation, call on all or any of the contributories, for the time being settled on the list of contributories, to the extent of their liability to pay any sum which they may deem necessary to satisfy the debts and liabilities of the corporation, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same;

Demand payment from contributories.

- (i) The liquidators shall pay the debts of the corporation and adjust the rights of the contributories, shareholders or members amongst themselves.

Liquidators to pay debts of corporation.

2 Geo. V. c. 31, s. 172.

175. All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidators, after taxation by one of the Taxing Officers of the Supreme Court at Toronto who is hereby empowered to tax the same, shall be payable out of the assets of the corporation in priority to all other claims. 2 Geo. V. c. 31, s. 173.

Payment of costs and expenses.

176.—(1) The liquidators shall have power to:

Power of liquidators.

- (a) Bring or defend any action, suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the corporation;

Bring or defend actions.

- (b) Carry on the business of the corporation so far as may be necessary for the beneficial winding up of the same;

Carry on business of corporation.

- (c) Sell *en bloc* or in parcels the real and personal property, effects and things in action of the company by public auction or private contract;

Sell by public auction or private contract.

- (d) Do all acts and execute, in the name and on behalf of the corporation, all deeds, receipts and other documents, and for that purpose use the seal of the corporation;

Execute deeds, etc.

- (e) Draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;

Draw and endorse promissory notes, etc.

- (f) Raise upon the security of the assets of the corporation from time to time any requisite sum or sums of money;

Raise sums necessary.

Take out letters of administration, etc.

(g) Take out in their official name letters of administration to the estate of any deceased contributory and do in their official name any other act that may be necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be conveniently done in the name of the corporation;

Do all other things necessary.

(h) Do and execute all such other things as may be necessary for winding up the affairs of the corporation and distributing its assets.

Bills of Exchange, etc., to be deemed drawn in due course.

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note on behalf of the corporation shall have the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such corporation in the course of carrying on the business thereof.

When moneys deemed to be due to liquidators.

(3) Where the liquidators take out letters of administration or otherwise use their official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling them to take out such letters or recover such money, to be due to the official liquidators themselves. 2 Geo. V. c. 31, s. 174.

Inspectors.

177. A corporation about to be wound up voluntarily, or in the course of being so wound up, may, in general meeting, by resolution, delegate to any committee of its shareholders or members, contributories or creditors, hereinafter referred to as inspectors, the power of appointing liquidators and filling any vacancies in the office of liquidators, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised. 2 Geo. V. c. 31, s. 175.

Deposit in bank by liquidators.

178.—(1) The liquidators shall deposit at interest in some chartered bank at a branch or agency in Ontario all sums of money which they may have in their hands belonging to the corporation, whenever such sums amount to \$100.

Approval of bank by inspectors.

(2) If inspectors have been appointed the bank shall be one approved by them.

Separate deposit account to be kept; withdrawal from account.

(3) Such deposit shall not be made in the name of the liquidators generally, but a separate deposit account shall be kept of the money belonging to the corporation, in the name of the liquidators as such, and of the inspectors, if any; and such money shall be withdrawn only on the joint cheque of the liquidators and one of the inspectors, if there be any.

Liquidators to produce bank pass book.

(4) At every meeting of the shareholders or members of the corporation the liquidators shall produce a pass-book, showing the amount of the deposits, the dates at which they

were made, the amounts withdrawn and dates of withdrawal; of which production mention shall be made in the minutes of the meeting, and the absence of such mention shall be *prima facie* evidence that the pass-book was not produced at the meeting.

(5) The liquidators shall also produce the pass-book when- Idem.
ever so ordered by the Court upon the application of the inspectors or of a shareholder or member of the corporation. 2 Geo. V. c. 31, s. 176.

179.—(1) The liquidators may from time to time, during Meetings of corporation during winding up.
the continuance of the winding up, summon general meetings of the corporation for the purpose of obtaining the sanction of the corporation by resolution, or for any other purpose they think fit.

(2) In the event of the winding up continuing for more Where winding up continues more than one year.
than one year the liquidators shall summon a general meeting of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding up has been conducted during the preceding year. 2 Geo. V. c. 31, s. 177.

180. If any vacancy occurs in the office of liquidators Vacancy in office of liquidator.
appointed by the corporation by death, resignation or otherwise the corporation in general meeting may, subject to any arrangement it may have entered into with its creditors, upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be convened by the continuing liquidators, if any, or by any contributory, and shall be deemed to have been duly held in the manner prescribed by the by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders or members of the corporation. 2 Geo. V. c. 31, s. 178.

181. The provisions of section 56 of *The Trustee Act* shall Distribution of assets. Rev. Stat. c. 121.
apply *mutatis mutandis* to liquidators. 2 Geo. V. c. 31, s. 179.

182. The liquidators, with the sanction of a resolution of Arrangements may be authorized with creditors.
the corporation in general meeting or of the inspectors, may make such compromise or other arrangement, as the liquidators deem expedient, with any creditor, or person claiming to be a creditor, or having or alleging that he has any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the corporation or whereby the corporation may be rendered liable. 2 Geo. V. c. 31, s. 180.

183. The liquidators may, with the like sanction, com- Power to compromise with debtors and contributories.
promise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present

Take
security.

or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the assets of the corporation, or the winding up of the corporation, upon the receipt of such sums, payable at such times and generally upon such terms as may be agreed upon; and the liquidators may take any security for the discharge of such calls, debts or liabilities and give a complete discharge in respect thereof. 2 Geo. V. c. 31, s. 181.

Power to
accept
shares, etc.,
as a con-
sideration for
sale of pro-
perty to
another
company.

184.—(1) Where a corporation is proposed to be or is in the course of being wound up, and the whole or a portion of its business or property is proposed to be transferred or sold to another corporation, the liquidators of the first mentioned corporation, with the sanction of a resolution in general meeting of the corporation by which they were appointed conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, shares or other like interest in such other corporation for the purpose of distribution among the shareholders or members of the corporation which is being wound up, or may, in lieu of receiving cash, shares, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation.

Sale or
arrangement
by liquidators.
binding unless
a member
objects.

(2) Any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the shareholders or members of the corporation which is being wound up, subject to the proviso that if any shareholder or member who has not voted in favour of the resolution expresses his dissent from any such resolution in writing, addressed to the liquidators or one of them and left at the head office of the corporation or the place where its undertaking is carried on, not later than seven days after the date of the meeting at which such resolution was passed, such dissentient member may require the liquidators to do such one of the following things as the liquidators may prefer, that is to say, either (a) to abstain from carrying such resolution into effect, or (b) to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned, such purchase-money to be paid before the corporation is dissolved, and to be raised by the liquidators in such manner as may be determined by resolution of the corporation.

Proceedings
on objection.

Special resolu-
tion not in-
valid because
prior to
resolution to
wind up.

(3) No resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to or concurrently with a resolution for winding up the corporation or for appointing liquidators.

Price pay-
able to dissen-
tient member.

(4) The price to be paid for the purchase of the interest of any dissentient shareholder or member may be determined

by agreement; but if the parties differ as to the same the price shall be determined by arbitration. 2 Geo. V. c. 31, s. 182.

185. For the purpose of proving claims, sections 26, 27 Proving claims, Rev. Stat. o. 134. and 28 of *The Assignments and Preferences Act* shall *mutatis mutandis* apply except that where the word "Judge" is used there shall be substituted for it the words "Master or Local Master mentioned in section 186." 2 Geo. V. c. 31, s. 183.

186.—(1) The Master in Ordinary where the head office of the corporation is in the County of York, or the Local Master where the head office is in any other county or in a district or the Master in Ordinary or any Local Master where a Judge of the Supreme Court deems it more convenient that the application should be made to him, and so directs or allows upon the application of the liquidators or of the Inspectors or of any creditor affected by the provisions of section 182, and after hearing such parties as he shall direct to be notified, or after such steps as he may prescribe have been taken, may give his opinion, advice or direction in any matter arising in the liquidation, and the same shall be followed and shall be binding upon all parties in the liquidation, subject to an appeal to a Judge of the Supreme Court in Chambers, if leave to appeal is given by such Master or Local Master or by a Judge of the Supreme Court, and the order of the Judge shall be final and binding in the liquidation. Application to Master in Ordinary or Local Master for opinion. By liquidators or inspectors.

(2) A creditor affected by anything done, or proposed to be done under the authority of section 184, shall have the like right to apply in respect thereof, and in other respects the provisions of subsection 1 shall apply. 2 Geo. V. c. 31, s. 184. By creditors.

Winding up under Order of the Court.

187. A corporation may be wound up by order of the Supreme Court: Winding up by Court.

- (a) Where it may be wound up voluntarily;
- (b) Where proceedings have been begun to wind up voluntarily and it appears to the Court that it is in the interests of contributories and creditors that they should be continued under the supervision of the Court;
- (c) Where in the opinion of the Court it is just and equitable for some reason other than the bankruptcy or insolvency of the corporation that it should be wound up;
- (d) Where the Letters Patent have been declared forfeited or revoked or made void. 2 Geo. V. c. 31, s. 185.

Who may
apply.

188.—(1) The winding-up order may be made by a Judge or Local Judge of the Supreme Court in Chambers upon the petition of the corporation or of a shareholder or member or, when the corporation is being wound up voluntarily, of the liquidator or a contributory or of a creditor having a claim of \$200 or upwards.

Notice.

(2) Except where the application is made by the corporation four days' notice shall be given to the corporation before the making of the same. 2 Geo. V. c. 31, s. 186.

Commence-
ment of
winding up.

189. Where a winding-up order is made by the Court without prior voluntary winding-up proceedings the winding up shall be deemed to commence at the time of service of notice of the presentation of the petition. 2 Geo. V. c. 31, s. 187.

Powers of
Court.

190. The Court may make the order applied for or may dismiss the petition with or without costs, may adjourn the hearing conditionally or unconditionally, or may make any interim or other order as may be deemed just; and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up, and may also delegate any powers of the Court conferred by this Act to any officer of the Court. 2 Geo. V. c. 31, s. 188.

Appointment
of liquidator.

191.—(1) The Court in making the winding-up order may appoint a liquidator or liquidators of the estate and effects of the corporation; but no such liquidator shall be appointed unless a previous notice is given to the creditors, contributories, shareholders or members in the manner and form prescribed by the Court.

Notice,
when not
necessary.

(2) If a liquidator has already been appointed in a voluntary liquidation such notice need not be given. 2 Geo. V. c. 31, s. 189.

Appointment
by Court.

192.—(1) If from any cause there is no liquidator acting either provisionally or otherwise the Court may on the application of a shareholder or member of the corporation appoint a liquidator or liquidators.

Removal of
liquidator.

(2) The Court may also, for due cause, remove a liquidator and appoint another liquidator.

The case of
no liquidator.

(3) When there is no liquidator the estate shall be under the control of the Court until the appointment of a liquidator. 2 Geo. V. c. 31, s. 190.

Proceedings in
winding up
after order.

193. When a winding-up order has been made proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as hereinbefore provided for a voluntary winding up, except that the list of contributories shall be settled by the Court unless the same has been settled by the liquidator prior to the winding-up

order, in which case such list shall be subject to review by the Court, and except that all proceedings in the winding up shall be subject to the order and direction of the Court. 2 Geo. V. c. 31, s. 191.

194.—(1) The Court may direct meetings of the shareholders or members of the corporation to be summoned, held and conducted in such manner as the Court deems fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the Court. Meetings of members of company may be ordered. Chairman.

(2) The Court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to the liquidator any sum or balance, books, papers, estate, or effects which are in his hands and to which the corporation is *prima facie* entitled. Order for delivery by contributories and others of property, etc.

(3) The Court may make such order for the inspection by the creditors and contributories of the corporation of its books and papers as the Court deems just; and any books and papers in the possession of the corporation may be inspected in conformity with the order of the Court, but not further or otherwise. 2 Geo. V. c. 31, s. 192. Inspection of books.

195.—(1) The Court may, at any time after the commencement of the winding up, summon to appear before the Court or liquidator any officer of the corporation, or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or supposed to be indebted to it, or any person whom the Court may deem capable of giving information concerning its trade, dealings, estate or effects. Examination of persons before court or liquidator.

(2) Where in the course of the winding up it appears that any person who has taken part in the formation or promotion of the corporation or any past or present director, manager, or official or other liquidator, or receiver, or any officer or employee of the corporation has misapplied, or retained in his own hands, or become liable or accountable for, money of the corporation, or been guilty of any misfeasance or breach of trust in relation to it, the Court may, on the application of a liquidator or of any creditor or contributory, examine into the conduct of the person charged and compel him to repay the money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the Court deems just, or to contribute such sum to the assets of the corporation by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust as the Court deems just. 2 Geo. V. c. 31, s. 193. Power of court to assess damages against delinquent directors, etc.

Proceedings
by share-
holders at their
own expense
and for their
own benefit
only.

196.—(1) If a shareholder or member of the corporation desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or members, or of the inspectors, refuses or neglects to take such proceeding, after being required so to do, the shareholder or member may obtain an order of the Court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the Court may prescribe.

Benefits,
when ex-
clusively for
shareholders.

(2) Thereupon any benefit derived from such proceeding shall belong exclusively to the shareholder or member instituting the same for his benefit and that of any other shareholder or member who may have joined him in causing the institution of such proceeding.

Benefits,
when for
corporation.

(3) If before such order is granted the liquidator signifies to the Court his readiness to institute such proceeding for the benefit of the corporation, an order shall be made prescribing the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the corporation. 2 Geo. V. c. 31, s. 194.

Rights
conferred
by Act to be
in addition
to other
powers.

197. The rights conferred by this Act shall be in addition to any other right of instituting proceedings against any contributory, or against any debtor of the corporation, for the recovery of any call or other sum due from such contributory or debtor or his estate. 2 Geo. V. c. 31, s. 195.

Stay of pro-
ceedings.

198. At any time after an order has been made for winding up, the Court, upon the application of any contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court deems fit. 2 Geo. V. c. 31, s. 196.

Appeal.

199. An appeal shall lie from any order or decision of a Local Judge, or of any officer to whom a reference is made, to a Judge of the Supreme Court sitting in Court, as in the case of an appeal from the master's report in an action. 2 Geo. V. c. 31, s. 197.

To Divisional
Court.

R.S.C. 1906,
c. 144, s. 101,
part.

200. An appeal shall lie to a Divisional Court by leave of a Judge of the Supreme Court from any order or decision of a Judge of that Court in any proceeding in a winding up under an order of the Court when—

(a) The question raised on the appeal involves future rights; or

(b) The order or decision is likely to affect other cases of a similar nature in the winding up proceedings; or

(c) The amount involved in the appeal exceeds \$500;

and the decision of the Divisional Court shall be final. 2 Geo. V. c. 31, s. 198. Decision final.

201. The Lieutenant-Governor in Council may make rules for the due carrying out of the provisions of this Part, and, except as otherwise provided by this Act or by such rules, the practice and procedure in a winding up under *The Winding-up Act of Canada* shall apply. 2 Geo. V. c. 31, s. 199. Rules of procedure. R.S.C. 1906, c. 144.

202.—(1) Where the affairs of the corporation have been fully wound up, the liquidator shall make up an account showing the manner in which the winding up has been conducted, and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders or members of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner provided by the by-laws for calling general meetings. Account of winding up to be made by liquidator to a general meeting.

(2) The liquidator shall make a return to the Provincial Secretary of such meeting having been held, and of the date at which the same was held, and the return shall be filed in the office of the Provincial Secretary; and on the expiration of three months from the date of the filing the corporation shall *ipso facto* be dissolved. 2 Geo. V. c. 31, s. 200. Return of holding of meeting to be sent to Provincial Secretary. Dissolution.

203.—(1) Notwithstanding the provisions of the next preceding section the Court at any time after the affairs of the corporation have been fully wound up may make an order dissolving the corporation, and the corporation shall be dissolved at and from the date of such order. Order for dissolution.

(2) The order shall be forthwith reported by the liquidator to the Provincial Secretary. Reports thereon.

(3) If the liquidator makes default in transmitting the return, or in reporting the order, if any, declaring the corporation dissolved, he shall incur a penalty not exceeding \$20 for every day during which he is in default. 2 Geo. V. c. 31, s. 201. Penalty on default in reporting by liquidator or in making return.

204. All dividends deposited in a bank and remaining unclaimed at the time of the dissolution of the corporation shall be left for three years in the bank where they are deposited, or in another bank if so ordered by the Court or Judge, and, if then unclaimed, shall be paid over, with interest accrued thereon, to the Treasurer of Ontario, and if afterwards duly claimed shall be paid over by the Treasurer to the persons entitled thereto. 2 Geo. V. c. 31, s. 202. Disposition of unclaimed dividends.

Deposit by
liquidator
with sworn
statement.

205.—(1) Every liquidator shall, within thirty days after the date of the dissolution of the corporation, deposit in the bank appointed or named as hereinbefore provided any other money then in his hands not required for any other purpose authorized by this Act, with a sworn statement giving an account of such money, and stating that the same is all he has in his hands; and in case of default he shall incur a penalty not exceeding \$10 for every day during which he is in default.

Penalty on
omission.

Money to
remain on
deposit for
three years.

(2) The money so deposited shall remain deposited as provided by action 204 for three years in the bank, and shall be then paid over, with interest, to the Treasurer of Ontario, and if afterwards duly claimed shall be paid over to the person entitled thereto.

Disposal of
books, etc.,
after winding
up.

(3) Where a corporation has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the corporation and of the liquidators may be disposed of as the corporation by resolution directs in case of voluntary winding up or as the Court directs in case of winding up under order.

After five
years responsi-
bility as to
custody of
books, etc., to
cease.

(4) After the lapse of five years from the date of such dissolution no responsibility shall rest on the corporation or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. 2 Geo. V. c. 31, s. 203.

Provision for
discharge of
liquidator and
distribution by
the Court.

206.—(1) Whenever a corporation is being wound up under an order of the Court, and the realization and distribution of its assets has proceeded so far that in the opinion of the Court it becomes expedient that the liquidator should be discharged, and that the balance remaining in his hands of the money and assets of the corporation can be better realized and distributed by the Court, the Court may make an order discharging the liquidator and for payment, delivery and transfer into Court, or to such officer or person as the Court may direct, of such money and assets, and the same shall be realized and distributed by or under the direction of the Court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

R.S.C. 1906,
c. 144, s. 47.

Disposal of
books and
documents.

(2) In such case the Court may make an order directing how the books, accounts and documents of the corporation and of the liquidator may be disposed of, and may order that they be deposited in Court or otherwise dealt with as may be thought fit. 2 Geo. V. c. 31, s. 204.

PART XIV.

GENERAL PROVISIONS.

207.—(1) The Lieutenant-Governor in Council may by Supplementary Letters Patent, upon the application of a corporation or of a shareholder, a creditor or a holder of bonds, debentures, debenture stock, or other securities or obligations thereof, or of any person with whom the corporation may have dealings, relieve the corporation from any duty, obligation or other disability which may have been imposed, or may limit any right, power or other advantage which may have been conferred upon the corporation by the repeal of the general Act under which it was incorporated and by the enactment of *The Ontario Companies Act* (1907) or of *The Ontario Companies Act* (1912) or of this Act. Varying powers or obligations of existing corporations affected by repeal of former enactments. 7 Edw. VII. c. 34. 2 Geo. V. c. 31.

(2) Notice shall thereupon be given by the Provincial Secretary of such Supplementary Letters Patent in the *Ontario Gazette*, setting out the manner in which any such duty, obligation or other disability has been relieved or in which such right, power or other advantage has been limited. Publication of the change.
2 Geo. V. c. 31, s. 205.

208.—(1) This Act, except in so far as it is otherwise expressly declared, shall apply to: Application of Act.

- (a) Every company incorporated under any special or general Act of the Parliament of the late Province of Upper Canada;
- (b) Every company incorporated under any special or general Act of the Parliament of the late Province of Canada which has its head office and carries on business in Ontario, and which was incorporated with objects or purposes to which the authority of this Legislature extends;
- (c) Every corporation incorporated under any of the Acts repealed by *The Ontario Companies Act*, (1907), or under any Act for which any of such repealed Acts was substituted or to which any of such Acts was applicable; 7 Edw. VII. c. 34.
- (d) Every company incorporated under a special Act to which any of the provisions of *The Ontario Joint Stock Companies' General Clauses Act* or any Act for which that was substituted was applicable; R. S. O. 1897. c. 189.
- (e) Every corporation incorporated under this Act or under *The Ontario Companies Act* (1907) or *The Ontario Companies Act* (1912). (See 2 Geo. V. c. 17, s. 50.) 7 Edw. VII. c. 34. 2 Geo. V. c. 31.

except a company incorporated for the construction and working of a railway, incline railway or street railway, the business of insurance except as provided by *The Ontario Insurance Act*, and the business of a corporation within the meaning of *The Loan and Trust Corporations Act*, except as provided by that Act.

Rev. Stat.
c. 183.

Rev. Stat.
c. 184.

Proviso.

(2) The Lieutenant-Governor in Council may relieve any company incorporated before the first day of July, 1907, from compliance with any of the provisions of this Act. 2 Geo. V. c. 31, s. 206.

Recovery of penalties.

Rev. Stat. c. 90.

209. Where not otherwise provided the penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 31, s. 207.

SCHEDULE.

FORM 1.

(Section 5 (2)).

PETITION.

To HIS HONOUR Etc.

Lieutenant-Governor of the Province of Ontario:

THE PETITION OF

.....

.....

.....

.....*Humbly sheweth as follows:*

1. Your petitioners are desirous of obtaining Letters Patent, under the provisions of *The Ontario Companies Act*, constituting your petitioners and such others as may become shareholders in the Company thereby created, a body corporate and politic under the name of The.....Company (Limited), or such other name as shall appear to Your Honour to be proper.

2. Your petitioners have satisfied themselves that the corporate name under which incorporation is sought is not on any public ground objectionable, and that it is not that of any known company, incorporated or unincorporated, or of any partnership or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive.

3. Your petitioners have satisfied themselves that no public or private interest will be prejudicially affected by the incorporation of your petitioners.

4. Each of your petitioners is of the full age of twenty-one years.

5. The object for which incorporation is sought is to.....

6. The head office of the Company will be at.....

7. The amount of the capital stock of the company is to be.....dollars.

8. The stock is to be divided into.....shares ofdollars each.

9. The saidare to be provisional directors of the company.

10. By subscribing therefor in a Memorandum of Agreement, duly executed in duplicate, with a view to the incorporation of the company, your petitioners have taken the amount of stock set opposite their respective names, as follows:—

Petitioners.	Amount of stock subscribed for.
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....

YOUR PETITIONERS therefore pray that Your Honour may be pleased to grant Letters Patent constituting your petitioners and the persons who have become subscribers to the Memorandum of Agreement and such other persons as may become shareholders in the company, a body corporate and politic for the due carrying out of the undertaking.

And your petitioners, as in duty bound, will ever pray, etc.

Dated at.....this.....day of....., 19 ..

Signatures of witnesses	.....	Signatures of petitioners.
.....
.....
.....
.....
.....

FORM 2.

Section 5 (3).

(To be executed in duplicate; one duplicate to be deposited in the office of the Provincial Secretary.)
(Name of Company concluding with the word).....(LIMITED.)

MEMORANDUM OF AGREEMENT AND STOCK-BOOK.

WE the undersigned hereby severally covenant and agree each with the others to become incorporated as a company under the provisions of *The Ontario Companies Act* under the name of..... (LIMITED), or such other name as the Lieutenant-Governor may give to the company, with a capital of.....dollars, divided into.....shares of.....dollars each.

AND WE hereby severally subscribe for and agree to take the respective amounts of the capital stock of the said company set opposite our respective names as hereunder written, and to become shareholders in such company to the said amounts.
Witness our hands and seals.

Name of subscriber.	Seal.	Amount of sub- scrip- tion.	Date and place of subscription.		Residence of subscriber	Name of witness.
			Date.	Place.		

(Section 6 (2)).

Dated at.....this.....day of....., 19 ..

Signatures of witnesses.	Signatures of petitioners.
	
	
	
	
	

2 Geo. V. c. 31, Form 3.

FORM 4.

Section 6 (3).

Memorandum of Agreement of the
made, and entered into this.....day of....., 19 ..

1. We the undersigned hereby severally covenant and agree each with the others to become incorporated under the provisions of *The Ontario Companies' Act* as a corporation without share capital for the purposes and objects following: (*Setting out the objects of the corporation.*)

2. The subscribers shall be the first members, and it shall rest with the directors to determine the terms and conditions on which subsequent members shall from time to time be admitted.

3. The following shall be the first directors of the corporation:—

4. The first directors shall hold office until the first general meeting, and unless otherwise provided by the members in general meeting the subsequent directors shall hold office for one year or until their successors are appointed.

5. Any member may transfer his interest in the corporation by instrument in writing, signed both by the transferor and transferee and duly registered with the corporation.

6. The first general meeting shall be held at such time, not being more than two months after incorporation, and at such place as the directors may determine.

7. Subsequent general meetings shall be held at such time and place as may be prescribed by the corporation in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the fourth Wednesday in January in every year, at such place as may be determined by the directors.

8. The directors may, whenever they think fit, and they shall upon a requisition made in writing by any five or more members, convene a general meeting.

9. The requisition shall express the object of the meeting proposed to be called, and shall be left at the office of the corporation.

10. Upon the receipt of such requisition the directors shall forthwith convene a general meeting, and, if they do not convene the

same within twenty-one days of the receipt of the requisition, the requisitionists or any other five members may themselves convene a meeting.

11. At least ten days' notice of any general meeting, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of such business shall be given to the members in the manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the corporation in general meeting, but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

12. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened upon the requisition of the members shall be dissolved. In any other case, it shall stand adjourned to the same day in the following week, at the same hour and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

13.—(1) The chairman (if any) of the directors shall preside as chairman at every general meeting of the corporation.

(2) If there is no such chairman, or if at any meeting he is not present, the members present shall choose one of their number to be chairman of the meeting.

14. The chairman may, with the consent of the meeting, adjourn it from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

15. At any general meeting, unless a poll is demanded, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minutes of proceedings of the corporation shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

16. If a poll is demanded, the same shall be taken in such manner as the chairman directs, and the result shall be deemed to be the resolution of the corporation in general meeting.

17. With the consent in writing of all the members, a general meeting may be convened on shorter notice than ten days and in any manner which such members think fit.

18. The presence in person or by proxy of either at least thirty members or of one-fourth of the members shall be necessary to constitute a quorum at general meetings.

19. Until otherwise determined by special resolution, every member shall have one vote.

20. Votes may be given either personally or by proxy, and the instrument appointing a proxy shall be in writing under the hand of the appointer, or if such appointer is a corporation under its common seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a member of the corporation.

21. A resolution signed by all the directors shall be as valid and effectual as if it had been passed at a general meeting of the directors duly called and constituted.

22. The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting shall be determined by the corporation in general meeting.

23. The affairs of the corporation shall be managed by the directors, who may pay all expenses of the incorporation and may exercise all such powers of the corporation as are not by *The Ontario Companies Act* or by this memorandum required to be exercised by the corporation in general meeting, subject, nevertheless, to any regulations of this memorandum, to the provisions of that Act and to such regulations not inconsistent with such regulations or provisions as may be prescribed by the corporation in general meeting; but no regulation made by the corporation in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made. The continuing directors may act notwithstanding any vacancy in their body.

24.—(1) The office of director shall be vacated:—

(a) If he holds any other office or place of profit under the corporation;

(b) If he is concerned in or participates in the profits of any contract with the corporation.

(2) No director shall vacate his office by reason of his being a shareholder or member of any corporation which has entered into any contract with or done any work for the corporation of which he is a director, but he shall not vote in respect of such contract or work, and if he votes his vote shall not be counted.

25. A retiring director shall be eligible for re-election.

26. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled, the meeting shall stand adjourned till the same day in the next week, at the same hour and place; and if at such adjourned meeting the places of the vacating directors are not filled, the vacating directors, or such of them as have not had their places filled shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled.

27. The corporation may, from time to time, in general meeting increase or reduce the number of directors, and may also determine in what rotation any such increased or reduced number is to go out of office.

28. Any casual vacancy occurring in the board of directors may be filled by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

29. The corporation, in general meeting, by a resolution, of which notice has been given in the notice calling the meeting, may remove any director before the expiration of his period of office, and may, by resolution, appoint another person in his stead; the person so appointed shall hold office during such time as the director in whose place he was appointed would have held the same if he had not been removed.

30.—(1) The directors may meet for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business.

(2) Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote.

(3) A director may at any time summon a meeting of the directors.

31. The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present, the directors present shall choose one of their number to be chairman of the meeting.

32. The directors, by resolution entered upon the minutes, may delegate any of their powers to committees consisting of such member or members of their body as they think fit, and a committee so formed shall, in the exercise of its powers so delegated, conform to any regulations that may be imposed on them by the directors.

33. A committee may elect a chairman, and if no such chairman is elected, or if he is not present, the members present shall choose one of their number to be chairman of the meeting.

34. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

35. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person so acting, or that they, or any one of them, were disqualified, shall be as valid as if every such person had been duly appointed and was qualified to be a director; but it shall not be necessary to give notice of a meeting of the directors to a director who is not in Ontario.

In testimony whereof we have hereunto set our hands and affixed our seals.

2 Geo. V. c. 31, Form 4.

FORM 5.

(Section 102 (1).)

Statement in lieu of prospectus

filed by
Limited,

pursuant to section 102.
Presented for filing by
The Ontario Companies Act.

STATEMENT IN LIEU OF PROSPECTUS.

The nominal share capital of \$.....
the company.

Divided into	Shares of \$	each.
	" "	"
	" "	"
	" "	"

Names, descriptions and addresses of directors or proposed directors.

Minimum subscription (if any) on which the company may proceed to allotment.

- | | | | |
|--|----|-----------------------------|-------|
| Number and amount of shares and debentures agreed to be issued as fully or partly paid-up otherwise than in cash. The consideration for the intended issue of those shares and debentures. | 1. | shares of | fully |
| | | paid. | |
| | 2. | shares upon which | |
| | \$ | per share credited as paid. | |
| | 3. | debenture | \$ |
| | 4. | Consideration. | |

Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company. Amount (in cash, shares or debentures) payable to each separate vendor.

Amount, if any, paid or payable (in cash or shares or debentures) for any such property, specifying amount, if any, paid or payable for goodwill.	Total purchase price, \$
	Cash " " \$
	Shares " " \$
	Debentures " " \$
	Goodwill " " \$

Amount, if any, paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company, or,	Amount paid
	" payable

Rate of commission Rate per cent.

Estimated amount of preliminary expenses.....

Amount paid or intended to be paid to any promoter. Name of promoter.
Amount \$

Consideration for payment. Consideration

Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of business intended to be carried on by the company or entered into more than two years before the filing of this statement.)

Time and place at which the contracts or copies thereof may be inspected.

Names and addresses of the auditors of the company (if any).

Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance sheets or reports of the auditors or other reports. Nature of the provisions.

(Signatures of the persons above named as directors or proposed directors, or of their agents authorized in writing.)

.....
.....
.....

FORM 6.

Instrument of Proxy.

(Section 51 (4).)

I _____ of _____ Company, Limited.
a shareholder of _____ Company, Limited.
hereby appoint _____ of _____
(naming the proxy) as my proxy to vote for me and on my behalf
at the _____ meeting of the company, to be
held on the _____ day of _____, 19, _____ and at any
adjournment thereof.

Dated this _____ day of _____, 19 _____

Note.—

(1) Where the appointor is a corporation or an officer of it the necessary changes must be made in the form.

(2) Where the instrument is signed by a corporation its common seal must be affixed.

2 Geo. V. c. 31, Form 6.

CHAPTER 179.

An Act respecting the licensing of Extra Provincial Corporations.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Extra Provincial Corporations Act*. Short title.

2. In this Act,

Interpre-
tation.

- (a) "Extra Provincial Corporation" shall mean a corporation created otherwise than by or under the authority of an Act of this Legislature. "Extra Provincial corporation." 63 V. c. 24, s. 1.
- (b) "Minister" shall mean that member of the Executive Council charged for the time being with the administration of this Act. "Minister."
- (c) "Regulations" shall mean regulations made by the Lieutenant-Governor in Council. "Regulations." *New.*

3. Extra Provincial Corporations of the classes mentioned in this section shall not be required to take out a license under this Act. Corporations which do not require license

Class 1. Corporations created by or under the authority of an Act of the Legislature of the late Province of Upper Canada, or by Charter of the Government of that Province.

Class 2. Corporations created by or under the authority of an Act of the Legislature of the late Province of Canada, or by Charter of the Government of that Province, and carrying on business in Ontario on the 1st day of July, 1900.

Class 3. Corporations which had before the 1st day of July, 1900, received from the Government of Ontario a license to carry on business in Ontario, or had been authorized by Act of this Legislature to carry on business in Ontario while such license or Act is in force.

Class 4. Corporations now or hereafter licensed or registered under the provisions of *The Ontario Insurance Act*. Rev. Stat. cc. 182, 184.

ance Act or of *The Loan and Trust Corporations Act*. 63 V. c. 24, s. 2, *part*.

Rev. Stat. c. 27.

Rev. Stat.
c. 215.

Class 5. Corporations liable to payment of taxes imposed by *The Corporations Tax Act*, or Corporations licensed under the provisions of *The Liquor License Act* relating to Brewers and Distillers. 1 Edw. VII. c. 19, s. 1.

Class 6. Corporations not having gain for any of their objects. 63 V. c. 24, s. 2, *part*.

Corporations
which require
license.

4. Extra Provincial Corporations of the classes mentioned in this section are required to take out a license under this Act.

Class 7. Corporations other than those mentioned in section 3 created by or under the authority of an Act of the Legislature of the late Province of Canada, or by Charter of the Government of that Province authorized to carry on business in Upper Canada, but not carrying on business in Ontario on the 1st day of July, 1900.

Class 8. Corporations created by or under the authority of an Act of the Dominion of Canada, and authorized to carry on business in Ontario.

Class 9. Corporations not coming within any of the classes 1 to 8. 63 V. c. 24, s. 3, *part*.

Rights to
license when
within
classes 7
or 8.

5. A corporation coming within class 7 or 8 shall, upon complying with the provisions of this Act and the Regulations, receive a license to carry on its business and exercise its powers in Ontario. 63 V. c. 24, s. 4.

Rights to
license when
within
class 9.

6. A corporation coming within class 9 may, upon complying with the provisions of this Act and the Regulations, receive a license to carry on the whole or such parts of its business and exercise the whole or such parts of its powers in Ontario as may be embraced in the license; subject however to such limitations and conditions as may be specified therein. 63 V. c. 24, s. 5.

Carrying on
business with-
out license
prohibited.

7.—(1) No Extra Provincial Corporation coming within class 7 or 8 or 9 shall carry on within Ontario any of its business unless and until a license under this Act so to do has been granted to it, and unless such license is in force; and no company, firm, broker, agent or other person shall, as the representative or agent of or acting in any other capacity for any such Extra Provincial Corporation, carry on any of its business in Ontario unless and until such corporation has received such license and unless such license is in force.

Exception.

(2) Taking orders for or buying or selling goods, wares and merchandise by travellers or by correspondence, if

the corporation has no resident agent or representative or no office or place of business in Ontario, shall not be deemed a carrying on of business within the meaning of this Act. 63 V. c. 24, s. 6, *part*; 1 Edw. VII. c. 19, s. 2.

(3) Every corporation which and every person who ^{Penalty.} contravenes the provisions of this section shall incur a penalty of \$20 for every day upon which the contravention occurs. 63 V. c. 24, s. 15.

8. The onus of proving that a corporation has no resident ^{Onus of} agent or representative and no office or place of business in ^{proof.} Ontario, shall, in any prosecution for an offence against the last mentioned section, rest upon the accused. 63 V. c. 24, s. 6, *part amended*.

9.—(1) An Extra Provincial Corporation coming within class 7 or 8 or 9 may apply to the Lieutenant-Governor in Council for a license to carry on its business or part thereof, and to exercise its powers or part thereof, in Ontario. 63 V. c. 24, s. 7.

(2) No limitations or conditions shall be included in any such license which would limit the rights of a corporation ^{Conditions of} coming within class 7 or class 8, to carry on in Ontario all ^{license.} such parts of its business and to exercise in Ontario all such parts of its powers as by its Act or Charter of incorporation it may be authorized to carry on and exercise therein. 1 Edw. VII. c. 19, s. 3.

10.—(1) The Lieutenant-Governor in Council may make ^{Regulations} Regulations which shall be published in the *Ontario Gazette* ^{by Order-in-} ^{Council.} respecting:—

- (a) the evidence required, upon the application for a ^{Evidence} license, as to the creation of the corporation, its ^{upon} powers and objects and its existence as a valid ^{application.} and subsisting corporation;
- (b) the appointment and continuance by the corpora- ^{Service of} tion of a person or company as its representative ^{process.} in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) the forms of licenses, powers of attorney, applica- ^{Forms.} tions, notices, statements, returns and other documents relating to applications and other proceedings under this Act.

(2) The Lieutenant-Governor in Council may make orders ^{Special} as to particular cases where the general Regulations may ^{Orders in} not be applicable or where they would cause unnecessary in- ^{Council.} convenience or delay. 63 V. c. 24, s. 8.

Proof to be
furnished on
application.

11. Upon the application for a license the applicant shall establish to the satisfaction of the Minister, or such other officer as may be charged by him to report thereon, that the provisions of this Act and the Regulations have been complied with; and the Minister, Deputy Minister or such other officer may, for that or for any other purpose under this Act, take evidence under oath. 63 V. c. 24, s. 9.
Amended.

Dealing with
real estate.

12. A corporation receiving a license may, subject to the limitations and conditions of the license, and subject to the provisions of its own charter, Act of Incorporation or other instrument creating it, acquire, hold, mortgage, alienate and otherwise dispose of real estate in Ontario and any interest therein to the same extent and for the same purposes as if such Corporation had been incorporated under *The Ontario Companies Act* with power to carry on the business and exercise the powers embraced in the license. 63 V. c. 24, s. 10.

Rev. Stat.
c. 178.

Notice of
granting
license.

13. Notice of the granting of a license under this Act shall be given in the *Ontario Gazette*, and a copy of such *Gazette* containing such notice shall be *prima facie* evidence, in all proceedings by and against the corporation and otherwise under this Act or otherwise, of the granting of the license and of the terms thereof mentioned in the notice; and a copy of the license certified by the Minister or his deputy shall be sufficient evidence of the license before all courts and tribunals. 63 V. c. 24, s. 11.

Returns to be
made by
licensees.

14. A corporation receiving a license and a corporation coming within class 3 shall, on or before the eighth day of February in every year during the continuance of the license, make and transmit to the Minister a statement under oath and according to a form approved of by the Lieutenant-Governor in Council, containing information similar to that required under section 135 of *The Ontario Companies Act*, or so much thereof or such additional information as may be required by such form, and the Minister may at any time require the corporation to supply further and other information. 63 V. c. 24, s. 12.

Rev. Stat.
c. 178.

Suspension,
cancellation
or restoration
of license
after default
of licensee.

15.—(1) If a corporation receiving a license makes default in observing or complying with the limitations and conditions of such license or the provisions of section 14, or the Regulations respecting the appointment and continuance of a representative in Ontario, the Lieutenant-Governor in Council may suspend or revoke such license in whole or in part, and may remove such suspension or cancel such revocation and restore such license.

Publication.

(2) Notice of such suspension, revocation, removal or restoration shall be given in the *Ontario Gazette*. 63 V. c. 24, s. 13.

16.—(1) If any Extra Provincial Corporation coming within class 7 or 8 or 9, contrary to the provisions of section 7, carries on in Ontario any part of its business, such corporation shall incur a penalty of \$50 for every day upon which it so carries on business; and so long as it remains unlicensed it shall not be capable of maintaining any action or other proceeding in any Court in Ontario in respect of any contract made in whole or in part within Ontario in the course of or in connection with business carried on contrary to the provisions of said section 7. Penalty for carrying on business without a license.

(2) Upon the granting or restoration of the license, or the removal of any suspension thereof, such action or other proceeding may be prosecuted as if such license had been granted or restored or such suspension had been removed before the institution thereof. 63 V. c. 24, s. 14. Saving.

17. The Lieutenant-Governor in Council may on or after granting a license remit in whole or in part any penalty incurred by the corporation receiving the license or by any representative or agent thereof, and may also remit in whole or in part the costs of any action or proceeding commenced for the recovery of any such penalty, and thereupon the whole or such part of the costs, as the case may be, shall not be recoverable. 63 V. c. 24, s. 16. Power to remit penalties or costs.

18. The penalties mentioned in this Act shall be recoverable only by an action at the suit of or brought with the written consent of the Attorney-General of Ontario, which shall be commenced within six months after the liability for such penalty was incurred, and not afterwards. 63 V. c. 24, s. 17. Penalties, how recoverable.

19. There shall be paid to His Majesty for the public uses of Ontario for every license under this Act, such fees as may be prescribed by the Lieutenant-Governor in Council. 3 Edw. VII. c. 7, s. 3. Fees on licenses and returns.

20. There shall be paid to His Majesty for the public uses of Ontario upon transmitting to the Minister the statement required by section 14 the fee of \$5 if the capital stock of the company does not exceed the sum of \$100,000 and a fee of \$10 if the capital stock of the company exceeds that sum, and until such fee has been paid such statement shall be deemed not to have been made and transmitted. 63 V. c. 24, s. 18, *part*. Fees on filing statement.

21.—(1) An extra provincial corporation which is not required by this Act to take out a license may apply for and receive a license authorizing it, subject to the limitations and conditions of the license, and subject to the provisions of its own charter, Act of incorporation or other creating instrument, to acquire, hold, mortgage, alienate and otherwise dispose of real estate in Ontario and any interest therein to Granting license as to real estate to other corporations.

Rev. Stat.
c. 178.

the same extent and for the same purposes as if such corporation had been incorporated under *The Ontario Companies Act* with power to carry on the business or exercise the powers embraced in the license.

Dispensing
with s. 14.

(2) The Lieutenant-Governor in Council may by such license dispense with compliance by such corporation in whole or in part with the provisions of section 14. 63 V. c. 24, s. 19.

Annual
Report.

22. A statement showing the licenses issued under this Act during the preceding calendar year and the authorized capital stock of the company licensed and the fee paid for each license shall be laid before the Assembly at each session thereof. 63 V. c. 24, s. 20.

[*Note.*—Schedules A and B to 63 V. c. 24, were repealed by 3 Edw. VII. c. 7, s. 53.]

CHAPTER 180.

An Act respecting Telegraph Companies.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Telegraph Act*. Short title.
New.

2. Every telegraph association or company, subject to the legislative authority of Ontario, and incorporated under chapter 67 of the Consolidated Statutes of Canada, or under any general Act passed subsequently thereto, and prior to *The Ontario Companies Act*, passed in the 7th year of His late Majesty's reign chaptered 34, may construct the lines of telegraph designated in its instrument of incorporation upon any lands purchased by the company, or the right to carry its line over which has been conceded to it by the person having a right to make such concession, and along and upon any of the public roads and highways, or across any of the waters within Ontario by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the wires or cables of such lines, provided the same are not so constructed as to incommode the public use of such roads or highways, or to impede the free access to any house or other building erected in the vicinity of the same, or injuriously to interrupt the navigation of such waters. R.S.O. 1897, c. 192, s. 1. Powers for the construction of the line.

3. Nothing herein shall confer on any such association or company the right of building a bridge over any navigable water. R.S.O. 1897, c. 192, s. 2. No right to build bridge over navigable water.

4. The person or company owning or operating any telegraph line shall, except in the cases provided for in the next following section, transmit all despatches in the order in which they are received, under a penalty of not less than \$20 nor more than \$100, to be recovered by any person whose despatch has been postponed out of its order. R.S.O. 1897, c. 192, s. 3. Duties of company in transmitting despatches.

5. Any message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches, shall always be transmitted in preference to any other message or despatch, if required by persons connected with the administration of What messages entitled to preference

justice, or any person thereunto authorized by the Provincial Secretary. R.S.O. 1897, c. 192, s. 4.

Temporary
Assumption
of the line by
Government.

6. His Majesty may, at any time, assume, and for any length of time retain, possession of any such telegraph line and of all things necessary to the efficient working thereof, and may for the same time require the exclusive service of the operators and other persons employed in working such line, and the person or company owning or operating such line shall give up possession thereof, and the operators and other persons so employed shall, during the time of such possession of His Majesty, diligently and faithfully obey such orders, and receive and transmit such despatches as they may be required to receive and transmit by any duly authorized officer of the Government of Ontario, under a penalty not exceeding \$100 for any refusal or neglect to comply with the requirements of this section, to be recovered by the Crown for the public uses of Ontario. R.S.O. 1897, c. 192, s. 5.

Assumption
of the property
of the line by
Government.

7.—(1) His Majesty, at any time after two months' notice to the company or owner of the telegraph line, may assume the possession and property thereof, and thereupon the line and all the property, real or personal, essential to the working thereof, and all the rights and privileges of such company or owner as regards the same shall be vested in the Crown. R.S.O. 1897, c. 192, s. 6.

Mode of settling the compensation in case of disagreement.

Rev. Stat. c 35.

(2) If a difference arises between the company or owner and the Crown as to the compensation to be paid therefor, or for the temporary exclusive use thereof under section 6, such difference shall be determined in the manner provided by *The Ontario Public Works Act* in the case of land taken without the consent of the owner. R.S.O. 1897, c. 192, s. 7.

Power of municipal corporations and Joint Stock Companies to hold shares.

8.—(1) Any municipal corporation or a joint stock company incorporated under any Act of the late Province of Canada or of Ontario, may subscribe for and hold shares in any telegraph company mentioned in section 2, and may pay the amount of such subscription out of any funds not specially appropriated to any other purpose.

Power of municipality to raise funds.

And to vote.

(2) Such municipal corporation may levy money by rate for paying any such subscription, and, subject to the instrument of incorporation and the by-laws of the telegraph company, may vote upon the shares held by it in such manner and through the intervention of such person or officer as may be determined by the council of the municipal corporation or by the joint stock company. R.S.O. 1897, c. 192, s. 8.

Telephone companies.

9. This Act shall not apply to telephone companies. *New.*

CHAPTER 181.

An Act respecting Joint Stock Companies for the Construction of Works to Facilitate the Transmission of Timber down Rivers and Streams.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Timber Slide Companies Act*. 3-4 Geo. V. c. 34, s. 1. Short title.

2. In this Act,—

Interpretation.

“Minister” shall mean the Minister of Lands, Forests and Mines. 3-4 Geo. V. c. 34, s. 2. “Minister.”

3. The Lieutenant-Governor in Council may confer the powers authorized by this Act upon any company heretofore or hereafter incorporated, under *The Ontario Companies Act* or any Act for which the same was substituted, for the purpose of acquiring or constructing and maintaining any dam, slide, pier, boom or other work necessary to facilitate the transmission of timber down any river or stream in Ontario, or for the purpose of blasting rocks, or dredging or removing shoals or other impediments, or of otherwise improving the navigation of the river or stream for such purpose, and every such company shall thereupon become subject to all the provisions of this Act. 3-4 Geo. V. c. 34, s. 3. Powers to be granted to companies. Rev. Stat. c. 173.

4. The letters patent incorporating a company for any of the purposes mentioned in section 3 shall not be issued until proof has been furnished that When letters patent may be issued.

(a) the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking; and

(b) notice of the application for the letters patent has been served upon all timber licensees and other persons known to be interested in the works proposed to be constructed. 3-4 Geo. V. c. 34, s. 4.

Material
to be
transmitted
by appli-
cants.

5.—(1) The applicants for the letters patent shall, with their application, transmit to the Provincial Secretary the report provided for by section 6, and copies of the by-laws proposed to be passed for regulating the transmission of timber over or through the works of the company and the navigation therewith connected; and when the Provincial Secretary, or other officer charged with the duty of reporting on the application, certifies that the other requirements preliminary to the issue of the letters patent have been complied with, such report shall be transmitted to the Minister.

Approval of
Minister
necessary.

(2) The letters patent shall not be issued until the Minister has certified to the Provincial Secretary that, in his opinion, it is proper that they should be issued. 3-4 Geo. V. c. 34, s. 5.

Contents of
report.

6. The report shall contain

- (a) a detailed description of the works proposed to be undertaken and an estimate of their cost;
- (b) an estimate from the best available sources of the quantity of different kinds of timber expected to come down the river or stream yearly after the works have been completed; and
- (c) a schedule of the tolls proposed to be imposed. 3-4 Geo. V. c. 34, s. 6.

Publication
of schedule
of tolls.

7. The schedule of tolls shall be published once a week for four successive weeks in a newspaper published in the county or district in which, or nearest to which, the works are to be situate. 3-4 Geo. V. c. 34, s. 7.

Report of
Minister
approving.

8. Thirty days after the first publication the Minister shall consider the report, and, if he approves of the issue of the letters patent, he shall so report to the Lieutenant-Governor in Council who may thereupon direct the issue of the letters patent. 3-4 Geo. V. c. 34, s. 8.

Rate of
dividend.

9. The Lieutenant-Governor in Council may, in the letters patent, state a rate of dividend, not exceeding 12 per centum per annum, which the company shall be at liberty to pay to the shareholders, if the revenues of the company otherwise justify such payment, and in such case the Minister shall, in considering the tolls to be allowed, have regard to such rate. 3-4 Geo. V. c. 34, s. 9.

Limitation
of com-
pany's ex-
istence.

10. The existence of the company may be limited to a term of years, not exceeding twenty-one, to be fixed by the letters patent. 3-4 Geo. V. c. 34, s. 10.

11. The company may make by-laws for regulating the transmission of timber over or through the works of the company and the navigation therewith connected. 3-4 Geo. V. c. 34, s. 11.

By-laws to regulate transmission of timber.

12. The proposed by-laws, with such variations as are made therein by the Minister before the issue of the letters patent, shall, upon the issue of the letters patent, become the by-laws of the company without further action or adoption by the company, and copies of all new by-laws and of all amending by-laws, with reference to the subjects dealt with by the proposed by-law, shall be annexed to the annual reports required by section 20. 3-4 Geo. V. c. 34, s. 12.

Copies of proposed by-laws to be annexed to reports of company.

13. No new by-law, or amending by-law, shall have any force until one month after it has been included in the report; but if at the end of one month the by-law has not been disallowed, as it may be by the Minister, it shall have full force and be binding upon the company using the works. 3-4 Geo. V. c. 34, s. 13.

When by-law to come in force.

14. No such by-law shall impose any penalty for a contravention thereof. 3-4 Geo. V. c. 34, s. 14.

Restrictions as to by-laws.

15. No company shall construct its works over or upon or otherwise interfere with or injure any private property, or the property of His Majesty, without first having obtained the consent of the owner or occupier thereof, or of his Majesty, except as is in this Act provided. 3-4 Geo. V. c. 34, s. 15.

Interference with property of others.

16. The Minister shall not report in favour of the issue of the letters patent incorporating a company to improve any river or stream for the improvement of which any other company has been formed, either under this Act or any other Act of this Legislature, without the consent of such other company. 3-4 Geo. V. c. 34, s. 16.

When consent to formation of company required.

17. Upon the expiration of the period limited for the existence of the company all the dams, slides, piers, booms and other works constructed by the company for the transmission of timber down any river or stream, or for the improvement of the navigation of such river or stream, shall become the property of His Majesty for the public uses of Ontario, and the company, or the shareholders thereof, shall have no right to compensation therefor. 3-4 Geo. V. c. 34, s. 17.

Property vesting in the Crown on expiration of company's existence.

18. Notwithstanding the expiration of the period limited for the existence of the company it shall continue to exist for the purpose of taking such proceedings as may be requisite for winding up and settling its affairs, and for getting in its assets, and distributing the same amongst its shareholders; and the company may, for those purposes, sue and

Company's existence to continue for the purpose of winding up.

be sued as if the period of its corporate existence had not expired; but after such period the words "in liquidation" shall be added to the name of the company and shall be a part of such name. 3-4 Geo. V. c. 34, s. 18.

Distribution
of capital
and profits.

19. No distribution of capital shall be made under the next preceding section until three years after the expiration of the period limited for the existence of the company, but this shall not prevent the distribution amongst the shareholders of the annual profits received from investments, and after such three years section 95 of *The Ontario Companies Act* shall not apply. 3-4 Geo. V. c. 34, s. 19.

Rev. Stat.
c. 178.

Yearly report
to the
Minister.

20.—(1) The directors of the company incorporated shall annually, in the month of January, make to the Minister a report, verified by the oath of the treasurer of the company, specifying—

Contents.

Cost of
work.

(a) the cost of the works;

Money
expended.

(b) the amount of all money expended;

Capital
stock.

(c) the amount of the capital stock, and the amount paid in;

Tolls ex-
pended on
work.

(d) the whole amount of tolls expended on the works;

Tolls re-
ceived.

(e) the amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber;

Dividends
paid.

(f) the amount of dividends paid;

Expendi-
ture for
repairs.

(g) the amount expended for repairs;

Indebted-
ness of
company.

(h) the amount of the debts due by the company, stating the objects for which they were respectively incurred;

Detailed
description
of exten-
sions or im-
provements.

(i) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the following year, together with an estimate of the cost thereof; and

Detailed
description
of repairs
or re-
movals.

(j) a detailed description of any repairs or renewals that may require to be made after the 31st day of December in the year to which the report relates and before the time of fixing the tolls, together with an estimate of the cost thereof.

When esti-
mated cost
of renewals
and repairs
to be ad-
vertised.

(2) If the repairs and renewals mentioned in clause (j) of subsection 1 are actually made before the settling of the tolls the cost thereof may be taken into consideration in fixing such tolls, and such estimated cost shall be advertised along with the schedule of tolls as provided in section 7. 3-4 Geo. V. c. 34, s. 20.

21. The company shall keep proper books of account containing full and true statements of the Books of account.

- (a) financial transactions of the company;
- (b) assets of the company;
- (c) sums received and expended by the company and the matters in respect of which the receipt or expenditure took place; and
- (d) credits and liabilities of the company;

and such books shall be at all times open to the inspection and examination of any shareholder. 3-4 Geo. V. c. 34, s. 21.

22. The Minister may appoint a person to inspect and examine such books, and every person so appointed may take copies or extracts from them, and may require from the keeper of such books, and also from the president and each of the directors of the company and all the other officers and servants thereof, all such information as to such books and the affairs of the company generally as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the company so as to enable him to ascertain whether the tolls are greater than are permitted by this Act to be imposed. 3-4 Geo. V. c. 34, s. 22. Inspection of books.

23. The company shall have the right to expropriate any land, right or easement requisite for the purpose of its undertaking, and except as herein otherwise expressly provided the provisions of *The Ontario Railway Act* as to making compensation to all persons interested and as to the mode of ascertaining the amount of compensation and the payment of it shall apply *mutatis mutandis*. 3-4 Geo. V. c. 34, s. 23. Rights of expropriation. Rev. Stat. c. 185. Ascertaining compensation.

24. In ascertaining the amount of the compensation due regard shall be had to the benefits which will accrue to the person claiming compensation from the construction of the intended works. 3-4 Geo. V. c. 34, s. 24. What to be considered.

25.—(1) If there is already established by any person, other than a company formed under this Act or any other Act of this Legislature, any slide, pier, boom, or other work intended to facilitate the passage of timber down any water, for the improvement of which a company is formed under this Act, such company may take possession of the works; and the owners thereof, or, if the works have been constructed on the property of His Majesty, the persons at whose cost they have been constructed, shall be entitled to compensation for the value of the works, either in money or in stock of the company, at the option of the owner or the person at whose cost the works were constructed, and may become shareholders in the company for an amount equal If timber slides, etc., erected by others be assumed by the company, how compensation to be made.

Rev. Stat.
c. 185.

to the value of the works, such value to be ascertained by arbitration as provided by *The Ontario Railway Act*; and all the provisions of that Act shall apply in the same manner and to the same extent as to lands expropriated by the company.

Formalities
to be ob-
served by
company
acquiring
existing
works.

(2) Where the company purchases or takes possession of the works, and does not make or construct any other works than those so acquired, the company shall furnish the Minister with the report mentioned in section 6. 3-4 Geo. V. c. 34, s. 25.

Mill sites,
etc., not to
be taken
without the
consent of
the owner.

26.—(1) Nothing herein shall authorize a company formed under this Act to take possession of or injure any mill site upon which there are existing mills or machinery, or hydraulic works other than those intended to facilitate the passage of timber; and no company formed under this Act shall commence any work which interferes with or endangers such occupied mill site without the consent in writing of the owner, or unless it is determined by arbitration that the proposed works will not injure such mill site.

Registering
consent
or award.

(2) The consent or award shall be registered in the same manner as the instrument of incorporation of the company. 3-4 Geo. V. c. 34, s. 26.

When no
compensa-
tion in respect
of land pur-
chased after
incorpora-
tion.

27. Where land which was sold after the construction of the works of the company is overflowed or injured by such works, and the purchaser obtained a reduction in the price of the land, or was otherwise indemnified for the overflow or injury, or where the land was located as a free grant after the construction of the works, the owner shall not be entitled to compensation from the company for the overflowing or injury by such works. 3-4 Geo. V. c. 34, s. 27.

Restrictions
upon the
company.

28. Nothing herein shall authorize the company to obstruct any waters already navigable or to collect tolls other than those upon timber. 3-4 Geo. V. c. 34, s. 28.

Rights of
parties as
to water
powers
created by
the company.

29. If, by reason of a dam erected by the company, any water power is created the company shall not have any title or claim to the use of such water power; but, if the owner or occupier of the adjoining land claims compensation for damages arising from such dam, the arbitrators may take into account the increased value of his land by reason of the water power so created. 3-4 Geo. V. c. 34, s. 29.

Principle on
which tolls
to be cal-
culated.

30.—(1) The tolls for the first year shall be calculated upon the estimates hereinbefore required to be made of the cost of the works, and the quantity of different kinds of timber expected to pass down the stream, and the tolls in all future years shall be calculated upon the cost of the works and the quantity of different kinds of timber expected to pass

down the stream, and the receipts and expenditure, according to the accounts of the then next preceding year, as rendered in accordance with the provisions of section 20 and the following sections.

(2) The tolls shall be so calculated that, after defraying the necessary cost of maintaining and superintending the works and running, driving, booming, towing, sorting, and rafting logs and other timber, and providing an equal annual sinking fund, which, invested at six per centum, will be sufficient to pay back to the shareholders the amount of their paid-up stock at the end of the time limited for the existence of the company, and collecting the tolls, the balance of the receipts shall as nearly as possible be equal to and in no case exceed \$10 for every \$100 expended and invested in the works.

(3) If in any year the receipts from tolls are such that, after defraying all the current expenses, there remains a clear profit of more than \$10 upon every \$100 of the capital expended there shall, nevertheless, be divided amongst the shareholders no greater dividend than after the rate of \$10 for every \$100, and the remainder shall be carried over to the receipts of the following year, unless a higher rate is authorized by the letters patent or by the Lieutenant-Governor in Council; and unless the Minister is of opinion that injustice will be done to any of the persons interested, such surplus may, in case of a deficiency, be applied in whole or in part upon any deficiency in the year preceding that in which the surplus accrued. 3-4 Geo. V. c. 34, s. 30.

31. The Minister may refer the taking of the accounts, or the consideration of any matter or thing that he may deem necessary in order to the proper adjustment of the tolls, to an accountant or expert or any other person of skill, and such accountant, expert or other person shall have all the powers conferred upon a person appointed to examine the books under section 22. 3-4 Geo. V. c. 34, s. 31.

32. The tolls to be collected upon different kinds of timber shall bear to each other the following proportions:

Red and white pine, tamarac, spruce and hemlock, cts. square and waney board, per thousand cubic feet	06
Oak, elm, or other hardwood, square or flatted, or waney board	09
Saw-logs, 17 feet and under, per thousand feet, board measure	01
Red and white pine, tamarac, spruce, and hemlock, round or flatted over 17 feet and under 30 feet long	01 1/4
Red and white pine, tamarac, spruce, and hemlock, round or flatted, 30 feet and upwards in length	01 1/2

Sawed lumber	03
Staves, per 1,000 feet.....	15
Cords of wood, shingle bolts, and other lumber, per cord of 128 feet	1-3
Spars, per piece	03
Masts, per piece	05
Railway ties other than cedar, in 8 or 16 feet lengths, per length of 8 feet	1-18
Cedar, round or flatted, 8 feet long or under, per piece,	1-24
Cedar, round or flatted, over 8 feet and under 17 feet long	1-12
Cedar, round or flatted, over 17 feet and under 23 feet long	00 $\frac{1}{8}$
Cedar, round or flatted, over 25 feet and under 35 feet long	1-5
Cedar, round or flatted, 35 feet and upwards	1-3
3-4 Geo. V. c. 34, s. 32.	

Reporting
schedule of
proposed
tolls.

33.—(1) The annual account required to be rendered by a company shall contain a schedule of the tolls so calculated which it is proposed to collect in the following year, and the schedule shall be published in the manner provided by section 7 prior to the 1st day of March, and if it has not been notified to the company, on or before the 15th day of April following, that the schedule has been disallowed by the Minister the tolls so published shall be the lawful tolls for that year.

When
Minister
may vary
same.

(2) If it appears to the Minister that the proposed tolls have not been calculated in accordance with the provisions of this Act the Minister may alter or vary the schedule so as to make the tolls accord with such provisions.

Publication
of amended
schedule.

(3) The amended schedule of tolls shall be notified to the company, and shall be published immediately thereafter for two weeks in a newspaper published in the county or district in which or nearest to which the works are situate, and shall be the lawful tolls for that year.

Where no
change.

(4) Should no change be made by the Minister a notice of that fact shall be published for two weeks in such newspaper. 3-4 Geo. V. c. 34, s. 33.

Demanding
of owner
statement
of quantity
of timber
liable to toll.

34.—(1) The company may demand from the owner of any timber intended to be passed over or through any portion of its works, or from the person in charge of the same, a written statement of the quantity of every kind of timber and of its destination, and of the sections of the works over or through which it is intended to pass, and if no written statement is given when required, or if a false statement is given, the whole of the timber, or such part of it as has been omitted by a false statement, shall be liable to double toll.

Penalty for
refusal or
false
statement.

(2) If any owner or person in charge knowingly or willfully returns a larger quantity than it is his intention or the intention of such owner or person in charge to pass over or through any of the sections the company shall be entitled, in addition to any other remedy it may have, to collect tolls on the difference between the quantity so falsely estimated and the quantity actually passing over or through the works. 3-4 Geo. V. c. 34, s. 34.

When false estimate is given as to quantity liable to toll, Extra tolls may be collected.

35. The company may demand and receive the lawful toll upon all timber which has come through or over any of its works; and the company and its servants shall have free access to all such timber for the purpose of measuring or counting it. 3-4 Geo. V. c. 34, s. 35.

On what timber toll taken. Right of company to examine.

36. If the just tolls are not paid on demand they shall be recoverable by action. 3-4 Geo. V. c. 34, s. 36.

May sue for tolls.

37. If timber has come through or over part only of the works of the company the owner of the timber shall be liable to pay tolls only for such sections of the whole works as he has made use of if, in the schedule of tolls, the works are divided into sections, and if not to pay such a portion of the whole tolls as the distance the timber has come through or over the works bears to the whole distance for which the works extend. 3-4 Geo. V. c. 34, s. 37.

Toll to be apportioned to the extent of the works used.

38.—(1) If the true owner of any timber which has passed through or over any of the works of the company cannot be ascertained, or if there are reasonable grounds to apprehend that the tolls thereon have not been paid by the owner or reputed owner or person in charge, any mayor, reeve or justice of the peace having jurisdiction in the locality through or adjoining which such navigation extends, or where the timber may be found, if within twenty miles of any such works, shall, upon the oath of any director or servant of the company that the just tolls have not been paid, issue a warrant for the seizure of such timber or so much of it as will be sufficient to satisfy the tolls.

Remedy by seizure of timber for non-payment of tolls.

Limit of distance.

(2) The warrant shall be directed to any constable or any person sworn as a special constable for that purpose, at the discretion of the magistrate, and shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date of the warrant, to sell the said timber, and out of the proceeds to pay to the company the just tolls, together with the costs of the warrant and sale, rendering the surplus on demand to the owner.

Execution of warrant.

(3) Where the works, through or over which any timber is passed, are in whole or in part constructed upon or along any river or stream tributary to any river or stream which flows into the Georgian Bay, Lake Huron, or Lake Superior, or

No limit in certain streams.

upon or along any of such last named rivers or streams, the right of seizure shall continue while the timber remains in any of such last named rivers or streams, whether or not the timber is within the twenty miles.

Idem.

(4) Where such works are constructed upon or along any river or stream in Ontario tributary to the Ottawa River the right of seizure shall continue while the timber remains in such tributary, river or stream, whether within the twenty miles or not.

Time
for seizure.

(5) Subsections 3 and 4 shall not extend the time for such seizure beyond thirty days. 3-4 Geo. V. c. 34.

OFFENCES AND PENALTIES.

Impeding
the opera-
tions of the
company.

39. Any person who resists or impedes the company or any of its servants in the transmission of any timber through or over any such works, or in carrying out any regulations of the company for the greater safety and regularity of such transmission, or resists the company or its servants who may require access to any raft or other timber to ascertain the just tolls thereon, or in any way molests the company or its servants in the exercise of any rights conferred upon them by this Act, shall incur a penalty of not less than \$1 or more than \$10. 3-4 Geo. V. c. 34, s. 39.

Service of
summons.

40. In any prosecution under this Act the summons may be served either personally or by leaving a copy of it at the usual place of abode of the party named in it or with any adult person belonging to the raft to which such party is attached. 3-4 Geo. V. c. 34, s. 40.

Fines, etc.,
to be paid to
the treasurer
of the
company.

41. The penalties when collected shall be paid to the treasurer of the company owning the works in respect of which they were imposed for the use of the company. 3-4 Geo. V. c. 34, s. 41.

Limitation
of actions.

42. An action against any person for any matter or thing done in pursuance of this Act shall be brought within six months next after the fact committed and not afterwards. 3-4 Geo. V. c. 34, s. 42.

MISCELLANEOUS.

Powers of
Minister
evidence.

43. The Minister may administer oaths and take evidence upon oath as to all such matters and things as come before him under this Act, and may by writing authorize any person, to whom any matter or thing under this Act shall be referred, to administer oaths and take evidence upon oath for the purposes of this Act. 3-4 Geo. V. c. 34, s. 43.

44.—(1) The company shall, within two years from its incorporation, complete every work undertaken by it and mentioned in the report required prior to its incorporation, and for the completion of which the company is incorporated; in default of which the company shall be liable to forfeit the right to all the corporate and other powers and authority which it has acquired; and the Attorney-General may cause proceedings to be taken in the name of His Majesty to set aside the charter by serving notice upon the company, and the Lieutenant-Governor in Council may, after an opportunity to be heard has been given to the company, declare that its corporate powers shall cease and determine at a date to be named in the Order in Council.

Time for
completion
of works.

(2) From and after such date all the corporate powers of the company shall cease and determine unless, prior to the taking of proceedings by the Attorney-General, further time is granted by the Minister, or the completion of the works appears to be unnecessary and is dispensed with by him.

Cesser of
corporate
powers.

(3) If the company abandons for one year any works completed by it so that the same are not in sufficient repair and cannot be used for the purpose for which they were undertaken the corporate powers of the company shall cease and determine, unless the maintenance of the work or the part of it so abandoned becomes unnecessary owing to the clearance or removal of the timber from the immediate neighbourhood thereof, or unless the abandonment of the same is permitted by the Minister. 3-4 Geo. V. c. 34, s. 44.

Default in
completing
works.

Abandon-
ment.

45.—(1) After any works constructed by a company have been completed and tolls established the company shall keep them in good and sufficient repair; and if such works have not been constructed according to the description given thereof in the report required by section 6, or have become insufficient or out of repair, any person interested in the navigation may serve upon any servant of the company a notice of such insufficiency, and if, within a reasonable time after the service of such notice, the necessary repairs have not been completed the company shall be liable for the damage which any person may sustain from the continuance of such insufficiency.

Works to be
kept in good
repair.

(2) No company shall be liable for any damage incurred after the time limited for the existence of the company has expired, or so long as the works are in accordance with the description or specification thereof in the letters patent, supplementary letters patent or other instrument of incorporation required to be registered, nor for any damage arising from the accidental destruction or injury of the works, but only for the damage which may arise from the wilful neglect of the company after notice served upon one of its servants, as hereinbefore provided. 3-4 Geo. V. c. 34, s. 45.

Limitation
of liability
for dam-
ages.

Inspection
of works
under order
of judge.

46.—(1) A judge of the County or District Court of the county or district in which any part of the works of the company complained of is situate, on the complaint of any person interested in the driving or transmission of timber or logs down any river or stream, through or over the works of the company upon which tolls are collected, that the works are clearly inadequate by reason of being out of repair, shall appoint an inspector to examine the works and to report on the state of repair thereof.

Direction
of Judge
for repairs
by com-
pany.

(2) The judge shall, after report of the inspector, order and direct what repairs are necessary and shall be made by the company, and the time by which the same shall be made and completed.

On default
of company,
person in-
terested
may make
same and
have lien.

(3) If the company does not comply with such order the person so interested may make the repairs, and the cost thereof, or such portion of them as the judge determines, shall be paid by the county and be a lien and charge in favour of such person on the works and tolls of the company.

Limit.

(4) No order shall be made in any one year for repairs which will cost more than \$100 upon any one work or improvement.

Deposit to
cover fees.

(5) The judge may require the applicant to deposit with the clerk of the court such sum as will, in the opinion of such judge, be sufficient to pay the fees and expenses of the inspector, to be allowed by such judge at a rate not exceeding \$5 per day and actual travelling expenses, and such sum, when the works are found to be clearly inadequate by reason of being out of repair, may, in the discretion of the judge, be made a lien or charge in favour of the person paying the same on the works and tolls of the company.

Bond to
cover costs.

(6) The applicant shall, before the application comes on to be heard, file with the judge a bond signed by himself in the penal sum of \$100 and by two sufficient sureties, who shall duly qualify, each in the sum of \$50, conditioned to pay to the company such costs connected with the application and subsequent proceedings as the company may become entitled to.

Notice.

(7) Four days' notice of the application shall be sufficient, and the notice may be served upon the president, secretary or superintendent, manager or acting manager, of the company and shall be sufficient.

Costs in
discretion
of Judge,
etc.

(8) The costs incidental to the application shall be upon the County Court or Division Court scale as the judge may direct.

Inspector,
definition
of.

(9) "Inspector" shall mean any person appointed by the Lieutenant-Governor in Council to act as inspector of the works of timber slide companies. 3-4 Geo. V. c. 34, s. 46.

47. Any two companies formed for the construction of works on contiguous streams may unite and form one consolidated company on such terms as to them seem meet; and the name of the company to be then assumed shall thenceforth be its corporate name, and letters patent may, subject to the approval of the Minister, be issued to it, and when issued the consolidated company may exercise and shall enjoy all the rights and shall be subject to all the liabilities of other companies formed under this Act, and which the separate companies had and enjoyed or were subject or liable to before their union. 3-4 Geo. V. c. 34, s. 47.

When companies may be united.

48. Whenever the Lieutenant-Governor in Council deems it expedient for the public service he may declare any company formed under this Act to be dissolved, and may declare all the works of such company to be public works upon payment to such company of the then actual value of the works to be determined in accordance with the provisions of *The Ontario Public Works Act*. 3-4 Geo. V. c. 34, s. 48.

When the Lieutenant-Governor in Council may declare a company dissolved.

Rev. Stat. c. 35.

49. Where a company incorporated under chapter 153 of the Revised Statutes of 1877, or under chapter 68 of the Consolidated Statutes of Canada, applies for the issue of letters patent under *The Ontario Companies Act* letters patent may, subject to the approval of the Minister, be issued conferring upon the company any of the powers authorized by this Act, and by such letters patent the term of existence of the said company may be limited and the company shall be subject to the provisions of this Act. 3-4 Geo. V. c. 34, s. 49.

Letters Patent may limit term of existence of certain companies.

Rev. Stat. c. 178.

50.—(1) The term of existence of any company incorporated for a limited period may be extended for such a number of years as the Lieutenant-Governor in Council may, previous to the expiry of such period, direct.

Extension of existence of company by supplementary letters patent.

(2) Where any extension or improvement of the works or any new works proposed to be undertaken, are approved by the Minister supplementary letters patent may be issued authorizing the construction of such extension or improvement or such new works as the case may be. 3-4 Geo. V. c. 34, s. 50.

Issue of supplementary letters patent for extensions or improvements.

51. Sections 30, 45 and 48 shall not apply to a company incorporated before the 5th day of March, 1881, unless and until such company has become re-incorporated under section 72 of *The Ontario Joint Stock Companies' Letters Patent Act*, or under *The Ontario Companies Act*; but in lieu of those sections, sections 57, 73 and 75 of chapter 153 of the Revised Statutes of 1877, shall apply to a company so incorporated and not re-incorporated, and sections 3, 8 to 10, 12 to 26 and 29 to 40 of that chapter 153 shall also continue to apply to every such company. 3-4 Geo. V. c. 34, s. 51.

Companies incorporated before March 5, 1881. Rev. Stat. 1887, c. 157, s. 72. Rev. Stat. c. 178.

CHAPTER 182.

An Act respecting Companies for the Construction of Wharfs and Harbours.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Wharfs and Harbours Act*.
2 Geo. V. c. 32, s. 1.

Application of Act.

2. This Act shall apply to every company heretofore or hereafter incorporated for constructing a pier or wharf, for dredging, deepening or making a harbour, or for the erection of a dry dock and marine railway connected therewith.
2 Geo. V. c. 32, s. 2.

Company's right of detention and sale.

3.—(1) The company may detain any goods, wares or merchandise, or any vessel, boat or craft until the tolls or charges thereon have been paid, and may sell any vessel or boat for the charges for repairs thereof when such charges have remained unpaid for thirty days.

Sale of goods for dues.

(2) Where the charges for wharfage or storage dues on goods, wares or merchandise have remained unpaid for thirty days the company, after giving ten days' notice of sale, may, by public auction, sell such goods, wares or merchandise or such part thereof as may be necessary to pay such dues, and shall return any overplus to the owner thereof.

Return of surplus to owner.
R.S.O. c. 37,
s. 345 (2),
(3).

(3) The company shall pay or deliver the surplus, if any, or such of the goods as remain unsold to the person entitled thereto. 2 Geo. V. c. 32, s. 3.

Power of municipal corporation to hold shares.

4. The corporation of the municipality in which any such work is to be constructed may subscribe for, acquire, hold and transfer shares in the company or may direct the head of the municipality to subscribe for such shares in the name of the corporation and to act for the corporation in all matters relating to such shares and the exercise of the rights of the corporation as a shareholder; and the head of the municipality, whether otherwise qualified or not, may vote and act in respect of such shares, subject to any rules and orders in relation to his authority made by the council, and according to his discretion in cases not provided for by the council. 2 Geo. V. c. 32, s. 4.

And to vote.

5. A company may sell to the corporation of any municipality in which the work is situate, and any such corporation may purchase the undertaking and assets of the company at the value agreed on between them, and the corporation shall in all respects thereafter stand in the place of the company and possess all its powers and authority. 2 Geo. V. c. 32, s. 5.

Power of
municipal
corporation to
purchase
undertaking
and assets.

CHAPTER 183.

An Act respecting Insurance.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PART I.

- | | |
|--|---|
| Short title. | 1. This Act may be cited as <i>The Ontario Insurance Act</i> .
2 Geo. V. c. 33, s. 1. |
| Interpretation. | 2. In this Act, |
| "Account." | (1) "Account" shall include travelling expenses, all fees and allowances and bills of costs; |
| "Actuarial liabilities." | (2) "Actuarial liabilities" shall mean the liabilities chargeable against an insurance corporation in respect of its insurance contracts before their maturity; |
| "Actuarial solvency." | (3) "Actuarial solvency" shall mean the solvency of an insurance corporation when its actuarial liabilities are charged or treated as present liabilities; |
| "Appeal." | (4) "Appeal" shall include a judicial revision or review of a judgment, decision, order, direction, determination, finding or conviction, and a case stated or reserved, and a removal of proceedings by way of <i>certiorari</i> or otherwise; |
| "Assessment insurance," or "insurance on the assessment system." | (5) "Assessment insurance" or "insurance on the assessment system," shall include any contract in which the premium, not being a premium note within the meaning of clause 46 of this section, consists of sums uncertain or variable in time, number or amount; and also any contract whereby the benefit is in any manner or degree made dependent upon the collection of sums levied upon persons holding similar contracts, or upon members of the contracting corporation, and shall also include any assessment insurance undertaken or transacted under the authority of <i>The Insurance Act</i> of Canada; |
| 9-10 Edw. VII. (Dom.) c. 32. | |
| "Beneficiary." | (6) "Beneficiary" shall include every person entitled to insurance money, and the executors, administrators and assigns of any person so entitled; |

- (7) "Beneficiary for value" shall mean a beneficiary for a valuable consideration other than marriage; "Beneficiary for value."
- (8) "Branch" shall mean any number of the members of a corporation under the control of a central body, having a separate insurance fund administered by themselves, and shall include a committee having, under the authority of an Act of Canada, the management of a benefit, insurance or gratuity fund; "Branch."
- (9) "Canadian company" or "Canadian corporation" shall mean a company or body incorporated by or under the authority of an Act of the Parliament of Canada; "Canadian" Company or Corporation.
- (10) "Cash-mutual company" shall mean a company organized to transact mutual insurance, but empowered to undertake contracts of insurance on both the cash plan and the premium note or mutual plan; "Cash mutual company."
- (11) "Chief Agency" shall mean the principal office or place of business in Ontario of an extra-provincial corporation undertaking insurance in Ontario; "Chief Agency."
- (12) "Collector" shall include every officer, agent or person receiving pay, however remunerated, who by himself or by any deputy or substitute collects premiums, fees, assessments or other money for an insurance corporation; "Collector."
- (13) "Company" shall mean and include any corporation, or any society or association, incorporated or unincorporated, or any partnership, or any underwriter that undertakes or effects for valuable consideration, or agrees or offers so to undertake or effect, in Ontario, any contract of insurance within the meaning of this Act; "Company."
- (14) "Contract of insurance" shall mean and include any policy, certificate, interim receipt, or renewal receipt, or writing evidencing the contract, or any contract or agreement sealed, written or oral, the subject matter of which is insurance; "Contract of insurance."
- (15) "Contributory" shall mean a person who is liable to contribute to the assets of an insurance corporation under this Act; "Contributory."
- (16) "Corporation" or "Insurance corporation" shall include any corporation which undertakes or offers to undertake a contract of insurance, and also any continuously existent body which undertakes or offers to undertake such contract, "Corporation" or "Insurance corporation."

and which, though not actually incorporated, is nevertheless legally entitled to sue and be sued in the name of any officer thereof, or of a public officer;

"Credit Insurance."

- (17) "Credit Insurance" shall mean insurance against the insolvency of debtors or against loss from giving or extending credit;

"Creditor."

- (18) "Creditor" shall include every person entitled to claim under a matured policy or under a policy which has attained a fixed surrender value; and, subject to section 217, in the case of an insurance corporation required by law or departmental regulation to maintain an ascertained or ascertainable reserve to meet its actuarial liabilities under unmatured policies, "creditor" in a winding up or liquidation under this Act shall also include any person who is a policy holder or beneficiary for value;

"Declaration."

- (19) "Declaration" shall include any mode of designating in writing a beneficiary or of apportioning or reapportioning insurance money among beneficiaries;

"Department."

- (20) "Department" shall mean the Department of Insurance of Ontario;

"Directors."

- (21) "Directors" shall include the board or committee, by whatever name known, having the management of an insurance corporation;

"Due application."

- (22) "Due application" shall include such information, evidence and material as the Superintendent or Registrar requires to be furnished; and also the payment of the fees hereinafter prescribed in respect of any application, certificate or document required or issued by virtue of this Act;

"Endowment insurance."

- (23) "Endowment insurance" shall mean an undertaking to pay an ascertained or ascertainable sum at a fixed future date, if the assured is then alive, or at his death, if he dies before such date, and shall include an undertaking to pay such sum on the assured reaching a stated age or attaining his expectation of life;

"Executive Officers."

- (24) "Executive officers" shall mean the persons who under the constitution and rules of a friendly society are entrusted with the management of its affairs;

"Extra Provincial corporation."

- (25) "Extra Provincial corporation" shall mean a corporation, not incorporated by or under the authority of a statute of Ontario and undertaking insurance in Ontario;

- (26) "Fidelity Insurance" shall mean insurance ^{"Fidelity Insurance."} against the dishonesty, unfaithfulness, negligence, or default of employees, or trustees, or persons occupying public or private positions of duty, trust, confidence or agency;
- (27) "Foreign Jurisdiction" shall include any juris- ^{"Foreign Jurisdiction."} diction other than of Ontario;
- (28) "Friendly Society" or "Society" shall include ^{"Society" or "Friendly Society."} any corporation, society, association, or fraternity, benevolent, mutual, provident, industrial, or co-operative, or the like which, not being a corporation or required by law to be licensed for the transaction of insurance, undertakes or effects for valuable consideration, or agrees or offers so to undertake or effect, with any person in Ontario any contract of insurance;
- (29) "Guarantee Insurance" shall include "Credit ^{"Guarantee Insurance."} Insurance," "Fidelity Insurance," and "Title Insurance," and any contract whereby the insurer ^{Contracts of suretyship, etc.} undertakes suretyship; or undertakes to pay money or perform a contract, trust or duty on default of another who is in the first instance liable for such payment or performance;
- (30) "Head office" shall mean the place where the ^{"Head office."} chief executive officers of an insurance corporation are authorized to transact its business;
- (31) "Inland marine insurance" shall mean marine ^{"Inland marine insurance."} insurance in respect of subjects of insurance at risk above the harbour of Montreal;
- (32) "Insurance" shall include the following, whether ^{"Insurance."} the contract be one of primary insurance, or of reinsurance, and whether the premium payable be a sum certain, or consist of sums uncertain or variable in time, number or amount—
- (a) Insurance against death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition;
 - (b) Insurance against financial loss; or against loss of work, employment, practice, custom, wages, rents, profits, income or revenue;
 - (c) Insurance of property against any loss or injury from any cause whatsoever, whether the obligation of the insurer is to indemnify by a money payment or by restoring or reinstating the property insured;
 - (d) Contracts of endowment, assessment-endowment, tontine, semi-tontine, life-time benefits,

annuities on lives, or contracts of investment involving tontine or survivorship principles for the benefit of persisting members; and any contract of investment involving life contingencies;

- (e) Any contract made in consideration of a premium and based on the expectancy or expectation or probability of life; and any contract made on such consideration and having for its subject the life, safety, health, fidelity or insurable interest of any person, whether the benefit under the contract is primarily payable to the assured or to a donee, grantee or assignee, or to trustees, guardians or representatives, or to or in trust for any beneficiary, or to the assured by way of indemnity or insurance against any liability incurred by him by or through the death or injury of any person.
- (f) Any investment contract under which lapses or payments made by discontinuing members or investors accrue to the benefit of persisting members or investors, except where a corporation other than an insurance corporation is expressly authorized to undertake such contract by a statute in force in Ontario.
- (g) Generally any contract in the nature of any of the foregoing whereby the benefit under the contract accrues payable on or after the occurrence of some contingent event;

(Note.—“Insurance on the Assessment System” defined under “Assessment Insurance.”)

“Insurance on the cash plan.”

- (33) “Insurance on the cash plan” shall mean insurance given for a money consideration without premium note;

(Note.—“Insurance Corporation” defined under “Corporation.”)

“Insurance fund” or “insurance funds.”

- (34) “Insurance fund” or “insurance funds,” as applied to a friendly society or as applied to any corporation not incorporated exclusively for the transaction of insurance, shall include all money, securities for money, and assets appropriated by the rules of the society or corporation to the payment of insurance liabilities or appropriated for the management of the insurance branch or department or division of the society, or otherwise legally available for insurance liabilities, but shall

not include funds of a trade union appropriated to or applicable for the voluntary assistance of wage-earners unemployed or upon strike;

- (35) "Insurance of the person" shall include insurance against death, sickness, infirmity, casualty, accident, disability, or against any change of physical or mental condition, and any contract of insurance having for its subject the life, health, safety or physical or mental condition of a person; ^{"Insurance of the person."}
- (36) "Insurance money" shall include every benefit and bonus payable by the insurer under the contract of insurance; ^{"Insurance money."}
- (37) "Lodge" shall include a primary subordinate division, by whatever name known, of a friendly society; ^{"Lodge."}
- (38) "Master" shall mean the Master in Ordinary in the case of a corporation having its head office at Toronto or in the County of York; and in the case of a corporation having its head office in any other county or in a district shall mean the local Master in such county or district; ^{"Master."}
- (39) "Member," as applied to any mutual or cash-mutual company transacting fire, live-stock or weather insurance, shall mean a policy-holder on the premium note plan, and as to a mutual or cash-mutual company, having joint stock capital, shall include any holder of shares of such capital; ^{"Member."}
- (40) "Minister" shall mean that member of the Executive Council charged for the time being by the Lieutenant-Governor in Council with the administration of this Act; ^{"Minister."}
- (41) "Municipality" shall include a provisional judicial district and any locality the inhabitants of which are incorporated; ^{"Municipality."}
- (42) "Mutual insurance," in the case of fire, live-stock or weather insurance, shall mean insurance given in consideration of a premium note with or without an immediate cash payment thereon; and "mutual company" shall mean a company empowered solely to transact such insurance; ^{"Mutual insurance." "Mutual company."}
- (43) "Nominee," when used with reference to annuities on lives, shall mean a designated person on whose life another's annuity depends; ^{"Nominee."}

- " Officer." (44) " Officer " shall include any trustee, director, manager, treasurer, secretary or member of the board or committee of management of a corporation or any person appointed by the corporation to sue and be sued in its behalf;
- " Policy." (45) " Policy " shall include any contract of insurance within the meaning of this Act;
- " Premium note." (46) Premium note " shall mean an instrument given as consideration for fire or live-stock or weather insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer, the aggregate of such sums not to exceed an amount specified in the instrument;
- " Provincial company or corporation." (47) " Provincial company " or " Provincial corporation " shall mean a company or body incorporated by or under an Act of this Legislature;
- " Receiver." (48) " Receiver " shall include interim receiver;
- " Registrar." (49) " Registrar " shall mean the Registrar of Friendly Societies;
- " Registry." (50) " Registry " shall mean registration in the Insurance Company Register, or in the Friendly Society Register, according as the matter pertains to an insurance company or a friendly society respectively, and shall include extension or renewal of registry;
- " Rules." (51) " Rules " shall mean and include provisions of the constitution and rules or regulations, or resolutions or by-laws in force for the time being;
- " Solvent." (52) " Solvent," as applied to a friendly society not undertaking endowment insurance or annuities, shall mean a society respecting which it has been made to appear to the Registrar that the society has no present liabilities apart from actuarial liabilities, or has immediately realizable assets adequate to discharge its present actual liabilities;
- " Superintendent." (53) " Superintendent " shall mean the Superintendent of Insurance and shall include the Deputy Superintendent of Insurance;
- " Title Insurance." (54) " Title Insurance " shall include insurance whereby the insurer insures the validity of title to property real or personal or insures the legality and validity of written obligations or of other instruments;

(55) "Trade union" shall mean an organization of wage-earners of a particular trade or industrial calling constituted primarily and operated *bona fide* for regulation of wages and hours of labour as between employers and employed; but shall not include a co-operative association or society; "Trade or labour union or organization."

(56) "Upon proof," as applied to any matter connected with the registry of a corporation or person, or with the registration of any matter or thing required by this Act to be registered shall mean upon proof to the satisfaction of the Superintendent; "Upon proof."

(57) "Will" shall mean last will and testament. 2 Geo. V. c. 33, s. 2. "Will."

3. For the purposes of this Act there shall be a Department of Insurance, and the same shall be presided over by the Minister. 2 Geo. V. c. 33, s. 3. The Department of Insurance.

4.—(1) The Lieutenant-Governor in Council may appoint an officer to be called the Superintendent of Insurance who shall act under the direction of the Minister. Appointment of Superintendent of Insurance.

(2) The Superintendent shall have general supervision of the business of insurance within Ontario and shall see that the laws relating to the conduct thereof are enforced and obeyed. His duties.

(3) The Superintendent shall examine and report to the Minister from time to time upon all matters connected with insurance. To report to Minister.

(4) The Lieutenant-Governor in Council may also appoint an officer to be called the Registrar of Friendly Societies who shall perform such duties as are assigned to him by this Act by the Lieutenant-Governor in Council, the Minister or the Superintendent. Registrar of friendly societies.

(5) Until the appointment of a Registrar the Superintendent shall perform the duties of Registrar. Idem.

(6) The Lieutenant-Governor in Council may also appoint an officer to be called the Deputy Superintendent of Insurance who shall act as Superintendent during the absence or inability of the Superintendent, and shall perform such other duties as are assigned to him by this Act, by the Lieutenant-Governor in Council, by the Minister or by the Superintendent and Registrar. Deputy Superintendent of Insurance.

(7) The same person may be appointed both Deputy Superintendent and Registrar. 2 Geo. V. c. 33, s. 4. Who may be appointed.

5. For the purposes of his duties under this Act or under any other Act relating to insurance, the Superintendent may Evidence.

require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses upon oath; and he shall have the same power to summon officers of corporations, receivers and liquidators and other persons to attend as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence as any Court has in civil cases. 2 Geo. V. c. 33, s. 5.

Contribution
from com-
panies to
expenses.

6.—(1) Towards defraying the expenses of the office of the Superintendent, a sum not exceeding \$5,000 shall be annually contributed by the companies required to be licensed under this Act.

How
determined.

(2) The amount to be annually contributed shall be assessed *pro rata* on the basis of the gross amount at risk as shown by the books of the several companies on the 31st day of December next preceding.

Contribution
to be paid
before
renewal of
license.

(3) A company shall not be entitled to have its license renewed until the amount of its contribution has been paid and the Superintendent's certificate shall be conclusive as to the amount payable. 2 Geo. V. c. 33, s. 6.

Independence
of superin-
tendent and
officers.

7. Neither the Superintendent nor any officer under him shall be interested as a shareholder, directly or indirectly, in any insurance company doing business in Ontario. 2 Geo. V. c. 33, s. 7.

Actions
against
Superinten-
dent or
Registrar.

8. Without a fiat of the Attorney-General, no action or proceeding shall be brought or taken against the Superintendent or Registrar for anything done or not done in the performance, or intended or supposed performance of his duty under this Act, or under any other Act which imposes duties upon them or either of them. 2 Geo. V. c. 33, s. 8.

INCORPORATION OF JOINT STOCK COMPANIES.

Incorporation.

9.—(1) The Lieutenant-Governor in Council may by Letters Patent constitute any number of persons, not less than five, of the full age of 21 years, and any others who become shareholders, a body corporate and politic for the purpose of undertaking and transacting any kind of insurance for which a joint stock company may be licensed under this Act.

Notice of
application.

(2) Applicants for incorporation shall immediately prior to the application publish in at least four consecutive issues of the *Ontario Gazette* notice of their intention to apply, and shall also if so required publish elsewhere notice of such intention.

Contents of
notice.

(3) The notice shall state—

(a) The proposed corporate name of the company;

- (b) The objects for which the company is to be incorporated;
- (c) The kind of insurance proposed to be transacted;
- (d) The place within Ontario where the head office of the company is to be located;
- (e) The amount of the capital stock, number of shares, and the amount of each share;
- (f) The name in full, the place of residence and the calling of each of the applicants; and
- (g) The names of the applicants, not less than five, each being a subscriber for shares to the amount of not less than \$1,000, who are to be the first directors of the company.

(4) The applicants shall deliver to the Superintendent the application for incorporation, and proof that notice thereof has been duly given, and proof of payment of the prescribed fees, and shall also deliver to him for his approval copies of the proposed by-laws of the company, which so far as approved by him shall be the by-laws of the company until repealed, altered or amended under the authority of this Act. 2 Geo. V. c. 33, s. 9.

10. The Letters Patent shall be expressed to take effect on the day of the date of the initial license issued to the company, and notice of the granting of the Letters Patent shall be given forthwith by the Superintendent in the *Ontario Gazette*. 2 Geo. V. c. 33, s. 10.

11.—(1) The affairs of the company shall be managed by a board of not less than five nor more than fifteen directors.

(2) The persons named in the Letters Patent as the first directors of the company shall be the directors of the company until replaced by others duly elected or appointed in their stead. 2 Geo. V. c. 33, s. 11 (1-2).

(3) The first directors shall in the manner provided in section 127 call a general meeting of the shareholders of the company for the election of directors and otherwise for dealing with the business of the company within two months after the incorporation of the company. 2 Geo. V. c. 33, s. 11 (3); 3-4 Geo. V. c. 35, s. 2.

(4) The succeeding directors shall be elected by the shareholders in general meeting at such times, in such manner, and for such term, not exceeding two years, as the by-laws of the company may prescribe.

(5) No person other than a first director shall hold office as a director unless he is a shareholder absolutely in his own right, and not in arrear in respect of any call thereon, of shares of the capital stock of the company to the amount of not less than \$1,000, and where a person who is a director

ceases to be such a shareholder he shall thereupon cease to be a director.

Notice of meetings of company.

(6) Notice of meetings of the company shall be given in the manner prescribed by section 127. 2 Geo. V. c. 33, s. 11 (4-6).

Application of ss. 121 and 126.

12. Sections 121 and 126 shall apply to joint stock companies. 2 Geo. V. c. 33, s. 12.

Capital stock. When to be not less than \$500,000.

13.—(1) If the company undertakes

- (a) fire, or
- (b) fire and inland marine, or
- (c) accident, or
- (d) life, or
- (e) life and accident, or
- (f) sickness and accident insurance, or
- (g) guarantee, or suretyship insurance,

the authorized capital stock shall be not less than \$500,000.

When to be not less than \$300,000.

(2) If the company undertakes live stock insurance, with or without insurance on vehicles, the authorized capital stock shall be not less than \$300,000.

When to be not less than \$100,000.

(3) If the company undertakes insurance other than that mentioned in the preceding subsections against loss or damage to property from any accidental causes, including boiler and other explosions or by reason of theft, house-breaking or burglary, the authorized capital stock shall be not less than \$100,000.

When to be not less than \$25,000.

(4) If the company undertakes bicycle or vehicle insurance, or plate glass insurance, the authorized capital stock shall be not less than \$25,000.

Amount of shares.

(5) The capital stock shall be divided into shares of \$100 each.

Money paid before organization.

(6) No money paid on account of shares before the first general meeting of the company has been organized shall be withdrawn or paid over to the company until after such meeting has been organized and the election of directors thereat.

Increase of capital stock.

(7) A company may with the assent of the Lieutenant-Governor in Council increase its capital stock to such an amount as he may deem expedient.

Notice of application for increase.

(8) Notice of any application under subsection 7 shall be published in at least four consecutive issues of the *Ontario Gazette*. 2 Geo. V. c. 33, s. 13.

Revocation, etc., of Letters Patent.

14. The Letters Patent and any Supplementary Letters Patent amending or varying the same may at any time be declared to be forfeited and may be revoked and made void by the Lieutenant-Governor in Council on sufficient cause

being shown in that behalf and such forfeiture, revocation and making void may be upon such conditions and subject to such provisions as he may deem proper. 2 Geo. V. c. 33, s. 14.

FORMATION AND INCORPORATION OF MUTUAL FIRE INSURANCE COMPANIES.

15. Where it appears to the Minister that there is in any municipality no adequate provision for insurance of farm and non-hazardous property on the mutual plan against fire the Minister may certify that fact, and thereupon ten freeholders in the municipality may call a meeting of the freeholders thereof to consider whether it is expedient to establish therein a fire insurance company upon the mutual plan. 2 Geo. V. c. 33, s. 15.

Meeting to establish company, how called.

16. The meeting shall be called by advertisement stating the time, place and object of the meeting; and the advertisement shall be published once in the *Ontario Gazette* and once a week for three successive weeks in a newspaper published in the county or district in which the municipality is situate. 2 Geo. V. c. 33, s. 16.

Advertisement calling meeting.

17. If thirty freeholders are present at the meeting and a majority of them determine that it is expedient to establish a mutual fire insurance company they may elect from among themselves three persons to open and keep a subscription book in which owners of real or personal property within Ontario may sign their names and enter the sum for which they shall respectively bind themselves to effect insurance with the company. 2 Geo. V. c. 33, s. 17.

Subscription book.

18. When one hundred or more of such owners have signed their names in the subscription book and bound themselves to effect insurance in the company amounting in the aggregate to not less than \$250,000 a meeting shall be called as hereinafter provided. 2 Geo. V. c. 33, s. 18.

When meeting may be called.

19.—(1) When the subscription has been completed any ten of the subscribers may call the first meeting of the proposed company at such time and place within the municipality as they may determine by sending a printed notice by mail, addressed to every subscriber at his post office address, at least ten days before the day of the meeting, and by advertisement in a newspaper published in the county or district in which the municipality is situate.

How meeting to be called.

(2) The notice and advertisement shall state the object of the meeting, and the time and place at which it is to be held. 2 Geo. V. c. 33, s. 19.

Contents of notice.

20.—(1) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the

Election of directors.

words "fire" and "mutual," shall be adopted, a secretary *ad interim* appointed, a board of directors elected as herein-after provided and some central and generally accessible place within the municipality, or within a municipality adjacent thereto, named, at which the head office of the company shall be located.

Quorum of meeting.

(2) The presence of at least twenty-five of the subscribers shall be necessary to constitute a valid meeting.

Meeting of directors to elect president and officers.

(3) As soon as convenient after the meeting the secretary *ad interim* shall call a meeting of the board of directors for the election from among themselves of a president and vice-president, for the appointment of a secretary and a treasurer or a secretary-treasurer or a manager and the transaction of such other business as may be brought before the meeting. 2 Geo. V. c. 33, s. 20.

Certain documents to be delivered.

21.—(1) Thereupon there shall be delivered to the Superintendent, certified as correct under the hands of the chairman and secretary:

(a) A copy of the minutes of the meetings including all resolutions respecting the objects of the proposed company, its name or style, and the location of its head office;

(b) A copy of the subscription book;

(c) A list showing the names and addresses of the directors elected and of the officers appointed.

Production of originals.

(2) There shall also, for verification, be produced to the Superintendent the originals of such documents. 2 Geo. V. c. 33, s. 21.

Superintendent to ascertain correctness of proceedings.

22. Upon the receipt by the Superintendent of the documents mentioned in section 21 he shall ascertain and determine whether the proceedings for the incorporation of the company have been taken in accordance with the provisions of this Act, and whether the subscriptions are *bona fide*, and by persons possessing property to insure, and whether the proposed name is the same as that of any existing company, or may be easily confounded therewith, or is otherwise objectionable. 2 Geo. V. c. 33, s. 22.

His report.

23.—(1) If the Superintendent determines that the provisions of this Act have been complied with and that there is no reason why the company should not be incorporated he shall so report to the Minister.

Certificate of incorporation.

(2) Upon receipt of the report the Minister under his hand and seal of office may issue a certificate of incorporation in as many original parts as may be required, one of which shall be filed and recorded in the office of the Provincial Registrar.

(3) From the time of the filing of the certificate the proposed company shall become a corporation and the members of the corporation shall be the persons who for the time being are insured therein on the premium note plan, and so long as the company remains duly registered under the provisions of this Act it shall be capable of undertaking in Ontario fire insurance on the mutual plan in the terms of its license. 2 Geo. V. c. 33, s. 23.

24. After the filing of the certificate the Minister may issue a license to the company to transact the kind of business specified therein for a term, not exceeding twelve months from the date of issue; and such license may from time to time be renewed for a like term. 2 Geo. V. c. 33, s. 24.

SHARE OR STOCK CAPITAL IN CASH-MUTUAL FIRE INSURANCE COMPANIES; CONVERSION OF CASH-MUTUAL INTO JOINT STOCK COMPANIES.

25. No cash-mutual insurance company shall hereafter be incorporated. 2 Geo. V. c. 33, s. 25.

26. Sections 27 to 32 shall apply only to cash-mutual fire insurance companies licensed and registered at the time of the passing of this Act. 2 Geo. V. c. 33, s. 26.

27.—(1) A cash-mutual insurance company which now has a share or stock capital, with the assent of the Lieutenant-Governor in Council, may from time to time increase its share or stock capital to such an amount as he may deem expedient.

(2) Notice of any application to the Lieutenant-Governor in Council under this section shall be published in at least four consecutive issues of the *Ontario Gazette*. 2 Geo. V. c. 33, s. 27.

28. Every subscriber to such share capital shall, on allotment of one or more shares, become a shareholder of the company. 2 Geo. V. c. 33, s. 28.

29. No insurance on the wholly cash plan shall make the insured a member of the company, or liable to contribute or pay any sum to the company, or to its funds, or to any other member thereof, beyond the cash premium agreed upon, or give him any right to participate in the profits or surplus funds of the company. 2 Geo. V. c. 33, s. 29.

30. The net annual profits and gains of the company not including therein any premium notes shall be applied in the first place to pay a dividend on the share capital not exceeding the rate of ten per centum per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the company. 2 Geo. V. c. 33, s. 30; 3-4 Geo. V. c. 35, s. 3.

When cash-mutual company may become a joint stock company.

31.—(1) A company which has surplus assets, not including premium notes, sufficient to reinsure all its outstanding risks may be formed into a joint stock company in the manner provided by section 9, upon making application as provided by that section.

Approval of members and shareholders.

(2) The application shall not be made until approved by the members by a vote representing at least two-thirds of the amount of the unexpired risks, and if the company has share capital by two-thirds in value of the shareholders, at an annual general meeting or at a special general meeting, and by three-fourths in number of the directors of the company in writing signed by them.

Notice of application.

(3) Notice of the intention to make the application and of the consideration thereof at such meeting shall be given by advertisement in the *Ontario Gazette* and in a newspaper published in the county or district in which the head office of the company is situate at least once a week for four successive weeks before the holding of the meeting.

Priority of members in subscribing to stock.

(4) Every person who is a member of the company on the day of the meeting shall be entitled to priority in subscribing to the capital stock of the company for one month after the opening of the books of subscription in the ratio that the insurance held by him bears to the aggregate of the unexpired risks then in force. 2 Geo. V. c. 33, s. 31.

Vesting of assets and preservation of liabilities.

32. Any company formed under the provisions of the next preceding section shall be answerable for all liabilities of the company from which it has been formed, and may sue and be sued under its new corporate name, and the assets and property of the old company shall be vested in the new company from the date of its formation. 2 Geo. V. c. 33, s. 32.

INCORPORATION OF FRIENDLY SOCIETIES.

No friendly society formed after 10th March, 1890, to undertake insurance.

33.—(1) No company, society, association or organization incorporated after the tenth day of March, 1890, under Chapter 172 of The Revised Statutes of Ontario, 1887, or under Chapter 211 of The Revised Statutes of Ontario, 1897, shall undertake or effect or agree or offer to undertake or effect any contract of insurance within the meaning of section 2.

Penalty.

(2) Any person who acts or purports to act for any such corporation in any such contract or offer shall be guilty of an offence against this Act.

Existing rights, etc., of friendly societies preserved.

(3) Neither the repeal by *The Ontario Companies Act* of the Acts mentioned in subsection 1 nor anything in this Act shall impair or affect the corporate existence, rights and powers of a friendly society incorporated under either of those Acts which is registered under this Act nor the rights and privileges of the members thereof or their beneficiaries. 2 Geo. V. c. 33, s. 33.

Rev. Stat. c. 178.

34.—(1) If it appears to the Lieutenant-Governor in Council that any body incorporated under the enactments referred to in section 33 exists or is using its corporate powers for any fraudulent or unlawful purpose, the Lieutenant-Governor in Council may suspend for a limited period, or revoke its corporate powers, and on any revocation the corporate powers shall *ipso facto* absolutely cease and determine except for the sole purpose of winding up its affairs in the manner provided in section 46.

Unlawful
use of
corporate
powers

Suspension or
revocation of.

(2) Notice of any such suspension or revocation shall be published in the *Ontario Gazette* and also elsewhere if the Lieutenant-Governor in Council so directs.

Publication of
notice of.

(3) If during the suspension, or after the revocation of its corporate powers, any director, officer, agent, employee, or other person acting or purporting to act on behalf of the corporation undertakes any contract of insurance he shall be guilty of an offence against this Act. 2 Geo. V. c. 33, s. 34.

Penalty for
undertaking
insurance
during sus-
pension or
after revoca-
tion.

35. On an application to the Registrar for incorporation as a friendly society under sections 36 to 41 the applicants shall be required to show to his satisfaction the necessity for the society proposed to be incorporated, and that the granting of the application would not be contrary to the public interest. 2 Geo. V. c. 33, s. 35.

Applicant
to show
necessity
for incor-
poration.

36.—(1) Where a friendly society, registered under this Act, has its head office elsewhere than in Ontario, the Grand or other Provincial body, or the lodges or a majority of the lodges in Ontario may file with the Registrar an application for incorporation under this Act, setting forth the reasons for seeking incorporation, the proposed corporate name, and head office, and the purposes and rules of the society, and naming the persons who are to be its first trustees or managing officers, and stating the mode in which their successors are to be elected; and shall furnish such other information as the Registrar may require.

Foreign
friendly
societies;
incorpora-
tion of Pro-
vincial body.

(2) Upon due application made, the Registrar may name a day for the hearing of the application, and such notice of the hearing shall be published in the *Ontario Gazette* and otherwise as the Registrar directs.

Hearing of
applications
and notice.

(3) If, upon the hearing, it appears to the Registrar that such incorporation ought to be granted, he shall certify in duplicate, or in as many parts as may be required, under his hand and the seal of his office, that he finds the persons mentioned therein entitled to incorporation under the name and for the purposes specified in the certificate.

Certificate
of incorpora-
tion.

(4) One of the original parts of the certificate shall be filed in the office of the Provincial Registrar, together with such other documents as the Registrar by his certificate

Filing of
certificate.

requires to be filed; and from the day of such filing the persons mentioned in the certificate and their associates and successors shall be a corporation. 2 Geo. V. c. 33, s. 36.

Incorporation of auxiliary bodies.

Or societies jointly.

37. Where in the opinion of the Registrar it is necessary or expedient that an auxiliary, or local or subordinate body or branch of a registered society should be separately incorporated or separately registered, or both, or that two or more societies should be incorporated or registered as one society, the Registrar may direct the like proceedings to be taken as in the next preceding section mentioned, and the filing of his certificate in the office of the Provincial Registrar shall have the same effect as therein provided. 2 Geo. V. c. 33, s. 37.

Incorporation of subordinate lodges. Registration.

38. Any unincorporated lodge or body controlled by a registered society, and operated under uniform rules prescribed by the society, and not contrary to law, may, through the society, make application to the Registrar for incorporation; and if it appears to him that incorporation ought to be granted he may certify the same under his hand and the seal of his office; and the filing of his certificate in the office of the Provincial Registrar shall have the same effect as provided by section 36. 2 Geo. V. c. 33, s. 38.

And of officers of superannuation or benefit funds.

39. The officers of any superannuation or benefit fund authorized by law may, in the manner and by the proceedings mentioned in section 36, become incorporated. 2 Geo. V. c. 33, s. 39.

Incorporation of trade unions and wage-earners' societies.

40. Upon like proceedings and in the manner provided by section 36 incorporation may be granted:—

(a) Where a trade union purposes to undertake contracts with its own members exclusively for any of the insurance benefits enumerated in and not prohibited by clause (c) of section 76, or contracts to furnish tools or to pay unemployed or superannuation benefits to the members;

(b) Where any organization of persons resident in Ontario consisting of not less than seventy-five members and managed and operated as a friendly society under rules conforming to this Act purposes to contract with its own members exclusively for sick benefits, not exceeding six dollars per week and a funeral benefit of not more than one hundred and fifty dollars, or either of such benefits. 2 Geo. V. c. 33, s. 40.

Revocation of warrant to subordinate lodge.

41.—(1) If a registered friendly society revokes the warrant or charter under which a subordinate branch or lodge is operated in Ontario, whether such branch or lodge is incorporated or not, such revocation shall be certified in

duplicate by the presiding officer and the secretary of the society under the seal thereof and one of the duplicates shall be filed with the Registrar and the other with the Provincial Registrar.

(2) The certificate from the filing thereof in the office of the Provincial Registrar shall, *ipso facto*, operate to dissolve the subordinate branch or lodge, and to vest its property, assets, funds and effects in the presiding officer and the secretary of the society and their successors in office, as trustees for the creditors and persons beneficially entitled; and the surplus, if any, after the liabilities are satisfied, shall vest in the society. 2 Geo. V. c. 33, s. 41.

42. Where any society, association, union, organization or lodge already incorporated, becomes incorporated under this Act the prior incorporation shall be merged in and superseded by the later incorporation. 2 Geo. V. c. 33, s. 42.

43. A registered friendly society organized on the lodge plan may by general or special by-law provide for the method by which two or more of its subordinate branches or lodges may be amalgamated and the transfer of the liabilities and assets to the new or continuing branch or lodge may be effected. 2 Geo. V. c. 33, s. 43.

PROVISIONS APPLICABLE TO ALL PROVINCIAL INSURANCE CORPORATIONS.

44.—(1) The company shall have a lien on the shares of any shareholder for unpaid calls or other debts due by him to the company and for any obligation held by the company against him.

(2) After any call, debt or obligation becomes due the company may, upon one month's notice to the shareholder, his executors or administrators, sell his shares, or a sufficient number of them, to pay the call, debt or obligation, and may transfer the shares so sold to the purchaser. 2 Geo. V. c. 33, s. 44.

45.—(1) The name of a corporation or the location of its head office may, with the approval of the Lieutenant-Governor in Council, be changed.

(2) The change of name shall not be made unless the Lieutenant-Governor in Council is satisfied that the company is solvent, and that the change desired is not for any improper purpose and is not otherwise objectionable.

(3) Notice of any such change shall be published in the *Ontario Gazette* and otherwise as the Superintendent directs. 2 Geo. V. c. 33, s. 45.

FORFEITURE OF CORPORATE POWERS OF COMPANIES.

Corporate power forfeited by non-user or discontinuance of business; or suspension or cancellation of license.

Except for winding up.

Receiver.

Rights of creditors preserved.

46.—(1) If a company incorporated under the law of Ontario, whether under this Act or under any general or special Act, does not go into actual *bona fide* operation within two years after incorporation; or if, after a company has undertaken contracts, such company discontinues business for one year, or if its license remains suspended for one year, or is terminated otherwise than by effluxion of time and is not renewed within the period of sixty days, the company's corporate powers shall *ipso facto* cease and determine, except for the sole purpose of winding up its affairs; and in any action or proceeding where such non-user is alleged proof of user shall be upon the company, and the Supreme Court, upon the petition of the Attorney-General or of any person interested, may limit the time within which the company shall settle and close its accounts, and may for that purpose or for the purpose of liquidation generally appoint a receiver.

(2) No such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of the forfeiture. 2 Geo. V. c. 33, s. 46.

GOVERNMENT DEPOSITS.

Certain corporations to make deposits in cash or in certain securities.

Rev. Stat. c. 121.

Application of section.

Initial deposits.

Renewal and re-adjustment.

47.—(1) Except mutual fire insurance companies licensed only for the insurance of farm buildings and of isolated risks, other than mercantile and manufacturing risks, and mutual live stock and mutual weather insurance companies every company applying for a license to transact insurance shall, before the issue or the renewal of the license or of registry, lodge with the Minister the prescribed deposit, which shall be made in deposit receipts of chartered banks of Canada or in the stock or bonds of the Dominion of Canada or of Ontario, or in deposit receipts or terminable debentures of any corporation in the obligations of which trustees may under *The Trustee Act* invest trust money, and the title to such deposit shall vest in the Minister.

(2) This section in so far as it alters the amount of the deposit required before the 13th day of April, 1897, shall not apply to such companies as before that date made their annual report to the Department.

(3) The initial deposit to be made by any corporation liable to make deposit before the original or initial registry shall be the sum prescribed by subsection 5.

(4) Before the annual renewal of registry the amount of deposit required shall on or before the first day of July in each year be re-adjusted in accordance with the provisions of the next following two subsections.

(5) If on the next preceding 31st day of December the corporation's total contingent liability or amount at risk does not exceed \$2,000,000,

Deposit for
contingent
liability of
\$2,000,000
and under.

(a) Every joint stock fire or fire and inland marine insurance company, and every life or life and accident insurance company, and every guarantee and surety company shall keep on deposit, if a Provincial or Canadian company, \$25,000, and if a foreign company, \$50,000;

(b) Every accident, or sickness and accident insurance company, if a Provincial or Canadian company, shall keep on deposit \$20,000, and if a foreign company, \$40,000;

(c) Every Provincial mutual fire, or Provincial fire and inland marine insurance company, insuring mercantile and manufacturing risks, shall keep on deposit \$10,000, and every Provincial cash mutual fire insurance company, \$10,000;

(d) Every live stock insurance company having share capital shall keep on deposit, if a Provincial or Canadian Company, \$10,000, and if a foreign joint stock company, \$25,000;

(e) Every insurance company mentioned in subsection 3 of section 13 shall keep on deposit, if a Provincial or Canadian company, \$10,000, and if a foreign company, \$20,000;

(f) Every insurance company mentioned in subsection 4 of section 13 shall keep on deposit, if a Provincial or Canadian company, \$5,000, and if a foreign company, \$10,000;

(g) Every foreign insurance company doing only the business of re-insuring fire risks undertaken by companies registered under this Act shall keep on deposit, \$10,000;

(h) Every friendly society not being a Provincial corporation mentioned in section 72 shall keep on deposit \$5,000.

(6) If on the preceding 31st day of December in any year the corporation's total contingent liability, or the amount of insurance in force, whether such insurance was undertaken directly or by way of re-insurance, exceeds \$2,000,000, then for each additional \$1,000,000, or fraction thereof, the corporations enumerated in the next preceding subsection shall respectively keep on deposit, by way of additional security, a sum equal to one-tenth of the initial deposit, and the additional deposit shall be in the securities mentioned in subsection 1.

Additional
deposit for
each additional
million or
fraction.

Additional
deposit.

(7) Where the total amount of a company's deposit under this section amounts to twice the initial deposit then for each additional \$1,000,000 or fraction thereof at risk each further addition to the deposit shall be one twenty-fifth of the initial deposit.

Suspension
or cancella-
tion.

(8) Where the company fails to keep its deposit unimpaired as required by this section its license may be suspended or cancelled. 2 Geo. V. c. 33, s. 47.

Voluntary
deposit.

Withdrawal.

48. An insurance company may voluntarily make a deposit in excess of the amount prescribed by section 47, but no part of a voluntary deposit shall be withdrawn without the sanction of the Minister. 2 Geo. V. c. 33, s. 48.

Value at
which cer-
tain securi-
ties received.

49.—(1) Securities of the Dominion of Canada, or of any of the Provinces of Canada, shall be accepted at their market value at the time when they are deposited.

Value at
which other
securities
received.

Record of
securities.

(2) The other securities shall be accepted at such valuation and on such conditions as the Minister may direct.

(3) The Superintendent shall under the name of each corporation keep a record of the securities deposited on its account, naming in detail the several securities, their par value, and the value at which they were received as deposit.

Requiring
further de-
posit on de-
cline of
market
value.

(4) Where the market value of any of the securities deposited declines below the value at which they were deposited the Minister may, from time to time, require the corporation to make a further deposit so that the market value of all the securities deposited by it shall be equal to the prescribed amount.

Securities,
etc., vested
in the Minis-
ter for time
being.

(5) Every security, obligation or covenant, or interest in real or personal property given, transferred to, made with, or vested in the Minister by virtue of his office shall, without any formal transfer, from time to time vest in the Minister for the time being.

Substitution
of securities.

(6) Where a corporation desires to substitute other securities of the class of those mentioned in section 47 for securities deposited with the Minister, he may permit the substitution to be made. 2 Geo. V. c. 33, s. 49.

Voluntary
deposits by
friendly
societies.

50.—(1) A deposit of any amount not less than \$5,000 may, with the consent of the Minister, be made by any registered Provincial friendly society; but no part of such deposit shall be withdrawn without the sanction of the Minister.

Rights of
unmatured
policy holders.

(2) Sections 51 to 61 shall not apply to registered Provincial friendly societies; but in the case of a registered Provincial friendly society any deposit made under this Act shall not make any unmatured policy or contract of insurance a liability against the society while a going society, or against the estate of the society in a winding up or liqui-

dation under this Act; but in such winding up or liquidation the persons assured under such unmaturred policies or contracts shall be entitled to share in the surplus assets of the society as provided in subsections 8 and 9 of section 206 or subsection 7 of section 219, as the case may be. 2 Geo. V. c. 33, s. 50.

51. If at any time it appears that a company has on deposit with the Minister a sum in excess of the prescribed amount the Lieutenant-Governor in Council, upon being satisfied that the interest of the company's Provincial policy-holders will not be prejudiced thereby, and upon the giving of such notice, and the taking of such other precautions as he may deem expedient, may authorize the withdrawal of the amount of such excess or such portion thereof as he deems advisable; but such withdrawal may be authorized without the giving of any notice. 2 Geo. V. c. 33, s. 51.

Withdrawal
of excess.

52. A company carrying on its business under license from the Dominion of Canada may, with the sanction of the Lieutenant-Governor in Council, withdraw its deposit. 2 Geo. V. c. 33, s. 52.

Withdrawal
of deposit
where com-
pany licens-
ed by Dom-
inion.

53. If from the annual statements or the examination of the affairs and condition of a company it appears in the case of a life insurance company that its policy reserves and in the case of any other company that its unearned premiums in both cases in respect to risks outstanding in Ontario, together with any other liabilities in Ontario, exceed its assets in Ontario, including the deposit in the hands of the Minister, the company shall forthwith make good the deficiency, and on failure so to do its license may be suspended or cancelled, and in case of cancellation, if a Provincial corporation, its corporate powers, except for the purpose of winding up its affairs as provided by section 46, shall thereupon cease and determine. 2 Geo. V. c. 33, s. 53.

Any deficiency
of security
to be made
good, or
license for-
feited.

54. Where the license of a company is suspended or cancelled under the provisions of subsection 8 of section 47 or of section 53 it may be revived if the company makes good the deposit or the deficiency as the case may be to the satisfaction of the Minister. 2 Geo. V. c. 33, s. 54.

Revival of
suspended
license.

55. So long as the conditions of this Act are satisfied and no notice of any final judgment against the company or order for its winding up or the distribution of its assets is given to the Minister the company shall be entitled to receive the interest upon the securities forming the deposit. 2 Geo. V. c. 33, s. 55.

Interest on
securities
to be paid
to company.

56.—(1) Where an undisputed claim arising from loss insured against in Ontario remains unpaid for sixty days after having become payable, or a disputed claim after final

Licenses
forfeited
by non-pay-
ment of
claims.

judgment in Ontario and tender of a valid discharge remains unpaid, and written notice of such non-payment has been given to the Superintendent, the license of the company may be suspended or cancelled.

Revivor of
license
after default.

(2) In case of suspension under this section the license may be revived, and the company may again transact business if within sixty days after notice to the Superintendent of the company's default such claim or judgment is satisfied.

Administra-
tion of
deposit.

(3) Where the company fails to pay any such undisputed claim within sixty days after it has become payable, or to pay any such judgment after tender of a valid discharge, the company's deposit may be administered in the Supreme Court.

Notice of
application
for adminis-
tration.

(4) At least ten days' notice of the application for administration, stating the ground of it, shall be served upon the company and upon the Superintendent.

When notice
may be
given.

(5) Where the claim accrues on the occurrence of any event and is by the terms of the contract of insurance payable on proof of such occurrence, without any stipulated delay, the notice shall not be given until after the lapse of sixty days from the time when the claim became payable. 2 Geo. V. c. 33, s. 56.

Government
deposit
security
for certain
contracts
only.

57.—(1) The deposit shall be subject to administration only in respect of contracts of insurance which have for their subject property in Ontario, or the life, safety, health, fidelity or insurable interest of a resident of Ontario, or where the contract makes the payment thereunder primarily payable to a resident of Ontario.

Application
of deposits
in case of
administra-
tion.

(2) In case of administration the whole deposit, after the costs of administration have been provided for, shall be assets for the holders of such contracts whose rights as among themselves shall be determined as provided by subsections 4 to 6 of section 219. 2 Geo. V. c. 33, s. 57.

Effect of
order upon
registration.

58. When an order for administration is made the company shall thereby become unregistered. 2 Geo. V. c. 33, s. 58.

In case of
Provincial
company.

59. In the case of a Provincial company, the winding up shall be deemed to have commenced under section 212 from the date of the administration order. 2 Geo. V. c. 33, s. 59.

In case of
extra Pro-
vincial
company.

60. In the case of a company not being a Provincial company, upon the application of any person interested in the administration or of the Superintendent, the Master shall appoint an administrator, and in respect of the administration the Master shall have the like powers and duties as a receiver under this Act. 2 Geo. V. c. 33, s. 60.

61.—(1) A company which has ceased to transact business in Ontario and desires to obtain a return of its deposit may give written notice to that effect to the Superintendent, and shall publish in the *Ontario Gazette* a notice that it has applied to the Lieutenant-Governor in Council for the return of its deposit, calling upon all claimants, contingent or actual, who object to the return to file their objections with the Superintendent on or before a day named in the notice which shall not be less than three months after the first publication of it.

Return of
deposit on
ceasing to do
business.

(2) Upon giving the notice to the Superintendent the company shall file with him a list of all its outstanding contracts of insurance including contracts in respect of which claims have accrued.

Filing list
of outstand-
ing contracts.

(3) After the day named in the notice, if the Minister is satisfied that the company has obtained a discharge of all such outstanding contracts, the Lieutenant-Governor in Council may direct that the deposit be returned.

Return of
deposit on
proof of dis-
charge of
contracts.

(4) If the Minister is not satisfied that all such contracts have been discharged the Lieutenant-Governor in Council may direct that a sufficient amount be retained to meet the contracts unprovided for and that the remainder of the deposit be returned, and thereafter from time to time as such contracts lapse or proof is adduced that they have been satisfied further return of the deposit may be directed by the Lieutenant-Governor in Council. 2 Geo. V. c. 33, s. 61.

Retaining
balance to
meet undis-
charged
contracts.

LICENSING OF INSURANCE COMPANIES.

62.—(1) All insurance companies other than those mentioned in sections 69 to 75, before being registered shall obtain a license from the Minister.

License,
when re-
quired.

(2) Before applying for license the company shall furnish to the Superintendent satisfactory evidence:—

Application,
proof re-
quired of
subscription
and payment.

(a) Where the company undertakes fire, or fire and inland marine, or accident, or life, or life and accident, or sickness and accident insurance, or undertakes guarantee or suretyship insurance, that of the capital stock not less than \$300,000 has been *bona fide* subscribed, and that \$30,000 has been paid thereon;

(b) Where the company undertakes live stock insurance with or without insurance on vehicles, that of the capital stock not less than \$150,000 has been *bona fide* subscribed, and that \$15,000 has been paid thereon;

(c) Where the company undertakes bicycle or vehicle insurance, or plate glass insurance, that of the

capital stock not less than \$12,000 has been *bona fide* subscribed, and that \$6,000 has been paid thereon;

- (d) Where the company undertakes insurance other than as mentioned in the preceding paragraphs against any loss of or damage to property from accidental causes including boiler or other explosions, or by reason of theft, housebreaking or burglary, that of the capital stock not less than \$60,000 has been *bona fide* subscribed, and that \$11,000 has been paid thereon;
- (e) That the amount paid on the subscribed stock has been actually and *bona fide* paid by the respective persons by whom the stock was subscribed;
- (f) That the payments have been made into a chartered bank of Canada to the credit of a named trustee for the company approved by the Superintendent at some office of such bank in Ontario.

Documents
to be filed.

(3) Every applicant for license shall file with the Superintendent the documents mentioned in sections 9 and 21, and also the documents required of an applicant for registry; and shall before being licensed make the prescribed deposit.

When license
shall issue.

(4) As soon as the company has made the prescribed deposit, and has otherwise complied with the requirements of this Act, the Minister may issue the license.

Form of
license.

(5) The license shall be in such form as may be determined by the Minister, and shall specify the business to be carried on by the company; and shall expire on the thirtieth day of June in each year, but shall be renewable from year to year.

Supplement-
ary licenses.

(6) Where a company desires to extend its business to some other branch of insurance, and has complied with the law in respect of additional deposit and otherwise, the Minister may on the report of the Superintendent issue a supplementary license authorizing the company to undertake such other branch of insurance business.

Record of
licenses.

(7) A record of the licenses and supplementary licenses shall be kept in the office of the Superintendent. 2 Geo. V. c. 33, s. 62.

Supplementary
licenses.

63. The provisions herein enacted as to the continuance, renewal, suspension and cancellation of licenses shall apply to supplementary licenses. 2 Geo. V. c. 33, s. 63.

No license
for
both fire
and life
insurance.

64. A license shall not be granted to a company for the transaction of both fire and life insurance. 2 Geo. V. c. 33, s. 64.

65. A company incorporated elsewhere than in Canada shall not be licensed unless it shows to the satisfaction of the Minister that it has carried on successfully for a period of at least five years the business for which a license is applied for. 2 Geo. V. c. 33, s. 65.

Foreign company.
Proof required before license.

REGISTRATION OF INSURANCE CORPORATIONS.

Registers.

66. There shall be kept in the Department,

Two registers to be kept.

(a) A Register to be called "The Insurance Company Register," in which shall be registered the corporations mentioned in sections 68, 69, 70 and 71;

Insurance company register.

(b) A Register to be called "The Friendly Society Register," in which shall be registered the friendly societies authorized by certificate to undertake insurance contracts. 2 Geo. V. c. 33, s. 66.

Friendly society register.

67. The duty of determining and distinguishing those corporations which are required to be registered and are entitled to registry, and of granting registry, shall devolve upon the Superintendent or Registrar subject to appeal as hereinafter provided. 2 Geo. V. c. 33, s. 67; 3-4 Geo. V. c. 35, s. 4.

Powers and duties of the Superintendent.

Insurance Company Register: What Corporations May be Registered.

68.—(1) A company shall, on the issue or the renewal of its license, be registered on the Insurance Company Register, without application and without additional charge and before delivery of the license, and the fact of such registration shall be indorsed thereon.

Right of licensees to registration.

(2) Suspension, cancellation or non-renewal of the license shall, *ipso facto*, operate as a suspension or cancellation of registry.

How suspended or cancelled.

(3) For the purposes of this section the license shall be deemed to be subsisting for thirty days after its expiry by effluxion of time. 2 Geo. V. c. 33, s. 68.

Days of grace.

69.—(1) A company licensed by the Dominion of Canada, upon application and upon proof that its license has been issued, may be registered on the Insurance Company Register.

Dominion licensees, registration of.

(2) Subsection 1 shall not apply to a company which has not made and kept up the deposit required by *The Insurance Act, 1910* (Canada).

When subsection 1 not to apply.

(3) Where a company registered under the provisions of this section contravenes any of the provisions of *The Insurance Act, 1910* (Canada), for which its license may under that Act be suspended or cancelled, such company shall be liable to have its registry under this Act suspended or cancelled.

Liability to cancellation or suspension of registry.

Suspension
or cancella-
tion by Do-
minion,
effect of.

(4) Suspension or cancellation by the Dominion of Canada of the license of any such company shall, *ipso facto*, operate as a suspension or cancellation of registry under this Act.

Reinstatement.

(5) When any such suspension is withdrawn the Superintendent may reinstate the company on the register. 2 Geo. V. c. 33, s. 69.

Registry of
marine
insurance
companies,
etc.

70. Companies transacting inland or ocean marine insurance, companies not transacting insurance business in Ontario but investing surplus funds in Ontario and companies mentioned in section 102 of *The Insurance Act, 1910* (Canada) may be admitted to registry. 2 Geo. V. c. 33, s. 70.

Lloyds, 34
and 35 Vic.
(Imp.) c. 21.

71. Upon due application of any underwriter of the society known as Lloyds, incorporated by the Imperial Statute, *Lloyds Act, 1871*, or upon due application of any such underwriter's broker or broker's agent, such underwriter, broker or agent may be admitted to registry for the undertaking and transaction of insurance, other than life insurance, and upon such terms and conditions as the Minister may deem expedient. 2 Geo. V. c. 33, s. 71.

Friendly Society Registers: What Corporations May be Registered.

What socie-
ties may be
registered.

72. In addition to friendly societies registered as such at the commencement of this Act, the following shall be admissible to registry on the Friendly Society Register:

Societies:
under sections
36, 37, 39, 40.

(a) A society incorporated under the provisions of sections 36, 37, 39 or 40;

Under a
Dominion
Act.

(b) A corporation not otherwise provided for in this Act which has by or under the authority of an Act of the Parliament of Canada an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation;

Trade union
insurance
benefit
societies.

(c) A trade union in Ontario which, under the authority of its incorporating Act or charter, has an insurance or benefit fund for the benefit of its own members exclusively;

Insurance
gratuity
fund created
by an Act
of Canada.

(d) A corporation which under the authority of an Act of the Parliament of Canada has created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition;

Civil service
association.
tions.

(e) An association of the civil servants or employees of the Dominion of Canada incorporated by or under the authority of an Act of the Parliament of Canada. 2 Geo. V. c. 33, s. 72.

73.—(1) A friendly society incorporated in another Province of Canada which authorizes friendly societies of Ontario to transact business within its limits on conditions similar to those set forth in this Act may be admitted to registry.

Societies
incorporated
by other
Provinces.

(2) No such society shall be admissible to registry:

Cases in
which such
societies not
admissible
to registry.

(a) Unless for five years next preceding its application for registry it has been continuously in actual operation as a solvent corporation of a Province of Canada under the law of which it was incorporated; or

(b) If it undertakes insurance or insurance benefit contracts with persons other than its own members; or

(c) If it insures or indemnifies against contingencies other than sickness, disability, or death, or funeral expenses, or if the sum or sums insured on the life of any one person exceed in all \$3,000; or

(d) If it undertakes endowment insurance, or other endowment contracts, or annuities upon lives, or bond or tontine, or semi-tontine, or marriage aid contracts; or

(e) If it has upon its books less than five hundred members in good standing; or

(f) If it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the assured; or

(g) Unless the society provides for its contracts upon lives at least to the extent of collecting from its members premiums not less than those set out in Schedule A, and such further sum as is sufficient to provide for the expenses of management.

(3) On proof that the society is entitled to registry, and on production of the certificate of registry of the proper officer of its own Province, if registry is required by the law of that Province, the society shall be entitled to registry upon making the prescribed deposit. 2 Geo. V. c. 33, s. 73.

Proofs for
registry.

74.—(1) Where two or more lodges or branches of a society, though separately incorporated, are under the financial or administrative control of a central governing body in Ontario, or a duly authorized Provincial representative of

Central body
for Ontario or
representative
may be
dealt with.

the society, such governing body if incorporated or such Provincial representative of the society may, if the Registrar thinks proper be dealt with as the society.

When central for Ontario incorporated.

(2) In the case of a friendly society incorporated elsewhere than in Ontario the central governing or controlling body in Ontario if incorporated by virtue of the law of Ontario may if the Registrar thinks proper be dealt with as the society. 2 Geo. V. c. 33, s. 74.

Trades unions. Exemptions in certain cases.

75. Where a *bona fide* trade union provides by its constitution, by-laws or rules for the assistance, relief or support of its members, the Registrar may, by writing, under his hand and the seal of his office, declare the organization exempt from the operation of this Act; and such declaration shall remain in force until in like manner revoked. 2 Geo. V. c. 33, s. 75.

Reservations.

76.—(1) The following shall not be entitled to register as a friendly society:—

Corporations requiring insurance licenses.

(a) Any corporation mentioned in sections 69, 70, 71, or licensed or required by this Act to be licensed;

Or distributing charity or gratuities only.

(b) Any corporation, except those mentioned in clause (d) of section 72, having charge of, or managing, or distributing charity, or gratuities, or donations only;

Or undertaking other than certain contracts.

(c) A corporation which undertakes or offers to undertake contracts of insurance other than with its own members exclusively, or for more than \$3,000 in respect of any one member, or any contracts of insurance with its members other than

(i) Insurance of the person; or

(ii) Contracts for the payment of mortuary or funeral benefits; or

(iii) Old age insurance;

Or where the insured number less than 75; or insurance fund is used for gain, &c.

(d) A corporation in which the persons insured number less than seventy-five, or in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, the insurance fund of which is held other than as a trust fund for the members insured;

Society where control of insurance fund is not in members or their representatives elected for not more than three years.

(e) A society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding three years, effective control over the insurance fund of the society; or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than three years;

(f) Any corporation which undertakes contracts of insurance but is not formed exclusively for that purpose and which does not for the purposes of such contracts keep distinct and separate funds, securities, books and vouchers.

Corporation not formed exclusively for insurance.

(2) Clause (c) shall not apply to contracts guaranteeing the fidelity of officers, servants, or employees of the branches or subdivisions of the corporation, and shall not disentitle to registry a friendly society which before the eleventh day of March, 1890, was *bona fide* transacting exclusively with its members endowment insurance in Ontario, and which has continued so to do up to the date of application for registry. 2 Geo. V. c. 33, s. 76.

Proviso.

77. Where, because of a provision in any of its rules, a society otherwise entitled to registry ought not, in the opinion of the Registrar, to be registered, it shall not be entitled to registry, until it has repealed or amended such rules in accordance with the direction of the Registrar. 2 Geo. V. c. 33, s. 77.

When rules must be amended.

78. A society incorporated under any Act of this Legislature shall not be entitled to registry unless its head office is located and maintained in Ontario and the secretary and treasurer are *bona fide* resident in Ontario. 2 Geo. V. c. 33, s. 78.

Head offices of Ontario societies.

Proceedings to Register: Duration of Registry.

79. Application for initial registry shall be made according to a form to be supplied by the Superintendent on request, and the applicant shall deliver to the Superintendent at his office the application duly completed, together with such evidence as the form by its terms requires, and shall furnish such additional information, material and evidence, and if the Superintendent deems it necessary shall give such public notice of the application as he may direct. 2 Geo. V. c. 33, s. 79.

Application for registry.

80. The applicant, if not a corporation mentioned in sections 70 or 71, shall also deliver to the Superintendent a statement in the form required by him of the financial condition and affairs of the applicant on the 31st day of December then next preceding, or up to its usual balancing day, if such day is not more than twelve months before the delivery of the statement, and such statement shall be signed by the applicants' president and secretary or other proper officers, and shall be verified by their oath. 2 Geo. V. c. 33, s. 80.

In certain cases financial statement to accompany application.

81.—(1) A corporation having its head office elsewhere than in Ontario shall, with its application for initial registry, file with the Superintendent a power of attorney executed in

Extra-provincial corporation. Power of attorney.

duplicate, appointing a resident of Ontario as its attorney or agent to receive service of notices and of process in all actions and proceedings against the corporation in Ontario, and declaring at what place in Ontario the head office or chief agency is located at which service may be effected.

Services on agent to be good service.

(2) Service upon such attorney or agent or upon an officer or clerk at such head office or chief agency shall be deemed service upon the corporation.

New power of attorney to be filed on change of attorney or head office.

(3) Upon every change of attorney or agent or of the location of the head office or chief agency in Ontario, or if from any cause the power of attorney filed becomes invalid or ineffectual, notice thereof shall forthwith be given to the Superintendent and a new power of attorney filed in like manner and form. 2 Geo. V. c. 33, s. 81.

Recording registry; entries on register.

82.—(1) The Superintendent shall cause to be entered on the proper register the name of every corporation admitted to registry, the date of registry, the term for which the registry is to endure, the place where the head office is located, the name and address of the chief agent, and the class of insurance for which the corporation is registered.

Entry of suspension, revivor, cancellation, etc.

(2) If during the term the registry is suspended, revived, revoked, or cancelled the date of and authority for the suspension, revivor, revocation or cancellation shall be entered on the register.

Contents of certificates of registry.

(3) The Superintendent shall issue under his hand and the seal of his office a certificate of registry setting forth that the corporation is registered for the term and for the purposes stated in the certificate.

Commencement and end of term of registry.

(4) The term shall begin on the date of registry and shall end not later than the 30th day of June following, but in the case of the corporations mentioned in sections 69, 70 and 71 the term of registry shall end not later than the 30th day of April following the date of registry. 2 Geo. V. c. 33, s. 82.

Interim certificate.

83. Notwithstanding failure to comply with the provisions of this Act within the prescribed time the Superintendent may, upon payment of the prescribed fee, grant an interim certificate of registry or extend the currency of a subsisting certificate. 2 Geo. V. c. 33, s. 83.

Proof of Registry and of Other Matters: Notice Under the Act.

Evidence of registry; semi-annual list to be published.

84.—(1) The Superintendent shall cause to be published in the *Ontario Gazette*, in July of each year, a list of the corporations which are registered at the date of the list; and shall cause notice of the registry of a corporation not there-

tofore registered and notice of suspension or cancellation or revivor of registry to be given by publication in the *Ontario Gazette*.

(2) A certificate under the hand and seal of office of the Superintendent that on a stated day the corporation or person mentioned therein was or was not registered under this Act, or that any corporation or person was originally admitted to registry, or that the registry of any corporation or person was renewed, suspended, revived, revoked, or cancelled on a stated day shall be *prima facie* evidence of the facts stated in the certificate.

Certificate of Superintendent as evidence as to registry, etc.

(3) A certificate of the filing of any document by this or by any former Insurance Act required to be filed in the office of the Provincial Registrar or of the Superintendent or Deputy Superintendent shall be *prima facie* evidence of the filing if signed or purporting to be signed by the Deputy or Assistant Provincial Registrar or by the acting Deputy or Assistant or by the Superintendent or Deputy Superintendent as the case may be.

And of other officers.

(4) The books, accounts and documents of a corporation and the entries in the books of its officers or receiver or liquidator shall be *prima facie* evidence of the matters to which they relate as against the corporation, or any of its branches or lodges, and as between any of the branches or lodges, or their respective members, and as between contributories or alleged contributories, and in a winding up as between an alleged debtor or contributory and the corporation. 2 Geo. V. c. 33, s. 84.

Books, etc., of corporation as evidence.

85.—(1) Subject to Statutory condition 7, delivery of any written notice to a corporation for any of the purposes of this Act, where the mode thereof is not otherwise expressly provided, may be by letter delivered at the chief office of the corporation in Ontario, or sent by registered post addressed to the corporation, its manager or agent at such chief office, or in any other manner to an authorized agent of the corporation.

How notice may be given to corporation.

(2) Subject to Statutory condition 15, any notice given by a corporation for any of the purposes of this Act, when the mode thereof is not otherwise expressly provided, may be given in the case of a member or person insured by mailing it to his post office address given in his original application for insurance or otherwise notified in writing to the corporation; and in the case of a shareholder by mailing the notice to his post office address as appearing in the register of shareholders. 2 Geo. V. c. 33, s. 85.

Notice by corporation.

86. Any oath required by this Act to be taken may be administered and certified to by the Superintendent or Deputy Superintendent or by any person authorized to administer oaths in Ontario. 2 Geo. V. c. 33, s. 86.

Oaths.

SUSPENSION OR CANCELLATION OF REGISTRY: BRINGING ACTIONS:
APPEALS FROM SUPERINTENDENT.

87. (1) Upon proof of the happening of any of the following events and after notice to the corporation where the Superintendent deems notice necessary or proper he may cancel the registry of the corporation:—

- (a) The repeal or the expiry without renewal of its charter, instrument of association, or deed of settlement, or of its Act of incorporation; or
- (b) The revocation of its corporate powers; or
- (c) The cancellation, or the expiry without renewal of the license or other document of authority by which the corporation was authorized to exercise its corporate powers for the transaction of insurance; or
- (d) The passing of a resolution by the corporation for its winding up; or
- (e) The making of an order by any Court for the winding up of the corporation.

(2) Upon proof of the happening of any of the following events and after notice to the corporation, where the Superintendent deems notice necessary or proper, he may suspend the registry of the corporation:—

- (a) The suspension of the license or other document of authority by which the corporation was authorized to exercise its corporate powers for the transaction of insurance; or
- (b) The suspension of the corporate powers of the corporation. 2 Geo. V. c. 33, s. 87.

88. Upon proof that registry or a certificate of registry was obtained by fraud or mistake, or that a corporation exists or is using its corporate powers for any fraudulent or unlawful purpose, is insolvent or is on the eve of insolvency, or has wilfully contravened any of the provisions of this Act, or has ceased to exist, the registry of the corporation may, after notice to the corporation, where the Superintendent deems notice necessary or proper, be suspended or cancelled, subject to appeal as provided in section 92. 2 Geo. V. c. 33, s. 88.

When action

89. (1) No action shall be brought for the recovery of money payable under a contract of insurance until the expiration of sixty days after proof, in accordance with the provisions of the contract, of the loss or of the happening of the event upon which the insurance money is to become payable or such shorter period as may be prescribed by any enact-

ment regulating the contracts of the corporation or as may be fixed by the contract of insurance.

(2) After such sixty days or shorter period any person entitled as beneficiary or by assignment or other derivative title to the insurance money, and having the right to receive the same and to give an effectual discharge therefor may sue for the same in his own name, any rule, stipulation or condition to the contrary notwithstanding. Beneficiary, assignee, etc., of contract may sue in his own name.

(3) If a corporation disputes a claim it shall give notice in writing to that effect to the claimant and to the Superintendent within such period. 2 Geo. V. c. 33, s. 89. Notice of dispute.

90.—(1) If notice of dispute is not given and the claim is not paid within such period, or if the claim is disputed and judgment is recovered thereon, and is not satisfied, the Superintendent, upon proof of non-payment, may suspend the registry of the corporation. Suspension of registry for non-payment, etc.

(2) If within sixty days after notice of the suspension the corporation shall have paid all undisputed claims and final judgments in full the Superintendent, upon proof of such payment, may revive the registry of the corporation and issue his certificate of such revivor, and unless such proof is furnished before the expiration of such period he shall cancel the registry of the corporation. 2 Geo. V. c. 33, s. 90. Revivor.

91.—(1) Every decision of the Superintendent refusing, suspending, cancelling, or reviving registry shall be in writing and notice thereof shall be forthwith given to the corporation. Decision of the Superintendent.

(2) The corporation or any person interested shall be entitled, upon payment of the prescribed fee, to a certified copy of the decision. Certified copy of.

(3) The evidence and proceedings in any matter before the Superintendent may be reported by a stenographer who has taken an oath before the Superintendent to faithfully report the same. 2 Geo. V. c. 33, s. 91. Stenographic report of evidence.

92.—(1) The corporation or any person who deems himself aggrieved by a decision of the Superintendent may appeal therefrom to a Divisional Court. Appeals.

(2) The appeal shall be set down for argument at the first sittings of a Divisional Court which commences after the expiration of 30 days from the decision complained of. Time for setting down.

(3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a Judge of the Supreme Court, in an action. 2 Geo. V. c. 33, s. 92. Practice and procedure thereon.

No registry
where name
misleading or
objectionable.

93. Before a license is issued or a company is admitted to registry the Superintendent shall be satisfied that the corporate name of the company is not that of any other known company incorporated or unincorporated, or any name liable to be confounded therewith or otherwise on public grounds objectionable. 2 Geo. V. c. 33, s. 93.

RIGHT OF SUPERINTENDENT TO ACCESS TO BOOKS, ETC.

Superinten-
dent to have
access to
corpora-
tion's books,
etc.

94. The Superintendent, or any person authorized under his hand and seal of office, shall at all reasonable times have access to all such books, securities, and documents of a corporation as relate to its contracts of insurance, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access shall be guilty of an offence against this Act and the corporation shall be liable to have its registry suspended; and, in case of continued refusal or neglect to afford such access, shall be liable to have its registry cancelled. 2 Geo. V. c. 33, s. 94.

SPECIAL AUDIT.

Special audit
in case of
fraud, illegal
acts, or de-
fault of
audit.

95.—(1) Upon proof to the satisfaction of the Superintendent that the accounts of a corporation have been materially and wilfully falsified, or that for eighteen consecutive months there has been no *bona fide* audit of its books and accounts, or if there is filed in the office of the Superintendent a requisition for audit bearing the signatures, addresses and occupations of at least twenty-five members or shareholders of the corporation, or of claimants or persons entitled to claim or having insurable interests under contracts of the corporation, and alleging in a sufficiently particular manner to the satisfaction of the Superintendent specific fraudulent or illegal acts, or the repudiation of contracts or insolvency, the Superintendent may appoint one or more accountants who shall, under his direction, make a special audit of the books and accounts and report thereon in writing verified upon oath to the Superintendent.

Security
for costs
of special
audit.

(2) Where an audit is requested the persons requesting it shall, with their requisition, deposit with the Superintendent security for the costs of the audit in a sum not exceeding \$300, and where the facts alleged in the requisition appear to the Superintendent to have been partly or wholly disproved by the audit he may pay the costs thereof partly or wholly out of the deposit.

Production
of books,
etc.

(3) The corporation, its officers and servants shall facilitate the making of such special audit so far as it is in their power, and shall produce for the inspection and examination by the person so appointed such books, securities and documents as he may require.

(4) Subject to the provisions of subsection 2 the expense of such special audit shall be borne by the corporation, and the auditor's account, when approved in writing by the Superintendent, shall be paid by the corporation forthwith.

Expense of special audit.

(5) Subject to appeal as hereinafter provided the Superintendent, upon proof of the fact, may cancel or suspend the registry of a corporation which fails to comply with the provisions of section 105, or refuses to permit an audit provided for by this Act to be made, or obstructs an auditor in the performance of his duties. 2 Geo. V. c. 33, s. 95.

When corporation resists or obstructs audit.

96. Every trustee, director, officer, manager, agent, collector, auditor or employee of a corporation, or of any of its branches or lodges, who knowingly makes or publishes, or assists in making or publishing, any wilfully false statement of its financial affairs, or who makes or assists in making any untrue entry in any book of record or account, or who refuses or neglects to make any proper entry therein, or to exhibit the books, vouchers, securities and documents, or to allow the same to be inspected or audited either for the general purposes of the corporation or for the purposes of this Act, and extracts to be taken therefrom, shall be guilty of an offence, and upon summary conviction shall be liable to imprisonment for a term not exceeding twelve months. 2 Geo. V. c. 33, s. 96.

Untrue entries, etc.

97.—(1) If the report made by the special auditor appears to the Superintendent to disclose any fraudulent or illegal act on the part of the corporation, or a repudiation of its contracts or insolvency, the Superintendent shall notify the corporation and furnish it with a copy of the report, and shall allow two weeks for a statement in reply to be filed with him.

Report of special auditor.

(2) Upon consideration of the report and of the statement in reply, and of such further evidence as he may require, the Superintendent may, subject to appeal as hereinbefore provided, suspend or cancel the registry of the corporation and shall give his decision in writing. 2 Geo. V. c. 33, s. 97.

Superintendent's decision.

UNREGISTERED CORPORATIONS AND ILLEGAL CONTRACTS.

98.—(1) No insurance other than contracts of guaranty undertaken by a company registered under *The Loan and Trust Corporations Act* shall be transacted or undertaken in Ontario except by a corporation duly registered under this Act, and no corporation shall transact or undertake in Ontario any business not specified in its certificate of registry.

No unregistered corporation to undertake insurance. Rev. Stat. c. 184.

(2) Subsection 1 shall not apply to a superannuation or insurance or annuity fund, managed or controlled by the Government of Canada or of Ontario, for the benefit of the civil service thereof.

Civil service fund of Canada

What deemed
to be
undertaking
insurance.

(3) Any person who sets up or causes to be set up any sign containing the name of a corporation, or who distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document in the name of a corporation, or who makes, or causes to be made, any written or oral solicitation on a corporation's behalf, or who collects or takes, or causes to be collected or taken, any premium of insurance on a corporation's behalf, shall be deemed to offer to undertake or effect a contract of insurance within the meaning of this section. 2 Geo. V. c. 33, s. 98 (1-3).

Printing of
words "As-
sessment
System."

(4) Every application, contract, or instrument, and every circular, advertisement or publication soliciting insurance of the person, issued or used in Ontario for the purposes of assessment insurance, shall bear the words "Assessment System" printed or stamped in large type at the head thereof. 2 Geo. V. c. 33, s. 98 (4); 3-4 Geo. V. c. 35, s. 5.

Statements
as to
capital.

(5) Where any advertisement, letter head, account or other document issued, published or circulated by a registered corporation or by any of its officers, agents or employees, purports to state the capital of the corporation, it shall state separately,

(a) The authorized capital;

(b) The capital actually and in good faith subscribed;

(c) The capital actually and in good faith paid up.

Penalty.

(6) Every person who in contravention of subsection 1 undertakes or effects or agrees or offers to undertake or effect any contract of insurance or who contravenes subsection 4 or subsection 5 shall incur a penalty of not less than \$20 nor more than \$200 recoverable under *The Ontario Summary Convictions Act*; and in case of a second or any subsequent conviction shall be liable to imprisonment for any term not exceeding six months.

Rec. Stat. 192.

Burden of
proof.

(7) The burden of proving registry shall be upon the corporation or person charged.

Application
of fines.

(8) One-half of any fine imposed under the authority of this section shall, when received, belong to His Majesty and the other half to the prosecutor. 2 Geo. V. c. 33, s. 98 (5-8).

Offence by
corporation
to be an
offence by
officers
thereof; con-
tinued de-
fault to con-
stitute new
offence.

99. Every offence against this Act committed by a corporation or by a branch or lodge of a corporation shall be deemed to have been also committed by every officer of the same who by virtue of his office is bound to fulfil any duty thereof such offence is a breach, or if there is no such officer, then by every member of the Committee of Management of the same unless it is proved that he attempted to prevent the commission of such offence, and every default under this Act which is an offence if continued shall constitute a new offence in each week during which such default continues. 2 Geo. V. c. 33, s. 99.

BROKERS' LICENSES FOR BUSINESS WITH UNREGISTERED FOREIGN CORPORATIONS.

100.—(1) Where the Minister is of opinion that insurance or sufficient insurance of property cannot be obtained with registered insurers at ordinary or reasonable rates of premium he may from time to time, by license made for a term not in any case extending beyond the next ensuing 30th day of June, authorize an insurance broker named in such license, hereinafter in this section called the licensee, to effect such insurance with insurers approved by the Minister not registered under this Act, and not transacting business in Ontario other than such as is transacted under the authority of a license issued under this section.

(2) The licensee before transacting business under the license shall furnish to the Superintendent security to his satisfaction in the sum of not less than \$5,000 that he will faithfully comply with all the requirements of this Act.

(3) The license shall in respect of insurance effected thereunder exempt the licensee, the insurer and such insurance from the operation of section 98.

(4) The Minister may at any time require a licensee to increase the amount of the security, and notice of such requirement may be sent by registered post addressed to the licensee at the address stated in the license, and if the licensee fails to comply with the requirement within eight weeks after the mailing of such notice the license shall *ipso facto* be cancelled.

(5) For non-compliance by the licensee with any of the requirements of this Act or for any other cause shown to the satisfaction of the Minister he may at any time, by notice in writing, which may be given as provided by the next preceding subsection, suspend or cancel the license.

(6) The licensee shall, in the case of every insurance to be effected under this section, obtain from the person applying for such insurance a dated statement, signed by the applicant, describing the property to be insured, its location and the amount of insurance desired; also stating that there is no insurer in Ontario registered for the transaction of that kind of insurance; or that application was previously made for such insurance to named insurers registered under *The Ontario Insurance Act* and that a premium at the rate stated in the application per \$100 for a specified term was offered to them, but that no insurance or only a stated part of the insurance so applied for was granted by such insurers.

(7) Every licensee shall keep a separate account of all insurances effected by him under his license in a book or books in the form prescribed by the Superintendent.

Books, applications, etc., to be open to inspection.

(8) Such book and the applications and statements mentioned in subsection 6 shall at all times be open to the Superintendent or to any officer of the Department.

Monthly returns to be made by licensee.

(9) Within ten days after the end of each calendar month every licensee shall make to the Superintendent a return in the form and manner by him prescribed of the particulars of all insurances effected under this section by the licensee during such month; and such return shall be verified by the oath of the licensee.

Premiums received by licensee to be reported to Department.

(10) In respect of all premiums on insurance effected under a license the licensee shall pay to the Department such taxes as would be payable if such premiums had been received by a registered insurance company; and the licensee shall, in respect of such premiums, report to the Superintendent from time to time as by him required.

Release of deposit.

(11) On it being shown to the satisfaction of the Minister that all insurances effected under this section are no longer in force, or have been reinsured, the licensee shall be entitled to a release or cancellation of his security.

License fee.

(12) For each license issued under this section a fee of \$25 shall be payable to the Department, but where the term for which the license is to be issued does not exceed six months the fee shall be \$12.50. 2 Geo. V. c. 33, s. 100.

REINSURANCE BY REGISTERED CORPORATION.

Re-insurance permitted with certain persons.

101. Nothing in this Act shall prevent a registered insurance company, which has lawfully effected a contract of insurance upon property in Ontario, from re-insuring the risk or any portion thereof with any insurer transacting business out of Ontario and not registered under this Act. 2 Geo. V. c. 33, s. 101.

BOOKS: PERIODICAL AUDIT: INVESTMENTS: VALUATION OF LIABILITIES: FINANCIAL STATEMENTS: INVESTMENT OF FUNDS.

(For special audit see section 95.)

Books as may be directed by Superintendent.

Rectification when necessary

102.—(1) Every registered corporation except those mentioned in subsection 1 of section 69 shall keep such a classification of its contracts, and such registers and books of account as may be prescribed by the Superintendent; and if at any time it appears to him that such books are not kept in such a way as to show properly the affairs and standing of the corporation he may appoint an accountant to audit such books under his direction, and to give such instructions as will enable the officers of the corporation to keep them correctly.

Expense of audit.

(2) The expense shall be borne by the corporation and shall not exceed \$5 per day and necessary travelling ex-

penses, and the account shall, when approved under the hand of the Superintendent, be paid by the corporation forthwith. 2 Geo. V. c. 33, s. 102.

103.—(1) Where the corporation has a share capital the books required by the next preceding section shall include a stock register in which transfers of shares shall be accurately registered, and which shall at all reasonable times be open to examination by any shareholder and the Superintendent. Transfer register.

(2) The entries in such register shall include the following particulars: the number of shares transferred, the amount paid up on them, the names and addresses of the transferor and the transferee, the date of the transfer and the date of confirmation by the directors. 2 Geo. V. c. 33, s. 103. Contents.

104. Insurance companies which are required to make a deposit shall cause to be kept a policy register in which all policies issued by the corporation shall be entered, distinguishing those for which the deposit is answerable under section 57. 2 Geo. V. c. 33, s. 104. Separate record for contracts secured by deposit.

105.—(1) The officers of every Provincial corporation shall at least once in every year have a *bona fide* audit of its books of record and account made by at least two competent auditors. Annual audit.

(2) Every auditor shall be a qualified accountant, not holding or having held within two years prior to his becoming auditor any other office or employment under the corporation. Auditors and qualification.

(3) The auditors shall be elected and their remuneration determined at a general meeting. Remuneration.

(4) An auditor shall hold office for not more than two years but shall be eligible to reappointment. Term of office.

(5) The directors or executive officers may, by a vote of two-thirds of the members present, suspend an auditor for incapacity, misconduct or negligence, such suspension to remain in force until the next general meeting. Suspension of auditor.

(6) If the office of auditor becomes vacant between general meetings the directors or executive officers may fill the vacancy until the next general meeting. 2 Geo. V. c. 33, s. 105. Vacancy of office of auditor.

106.—(1) Every Provincial corporation shall furnish to each shareholder or member at least two weeks before its annual meeting a summary statement in a form approved by the Superintendent, showing as the result of such audit the corporation's assets, liabilities, receipts and expenditures, and the state of its insurance funds as they appear in the statement mentioned in section 108, and a copy of such sum- Summary statement.

mary statement signed and certified by the president and by the manager or secretary and by the auditors shall be filed in the office of the Superintendent with the statement required by section 108. 2 Geo. V. c. 33, s. 106 (1); 3-4 Geo. V. c. 35, s. 6.

Statement
in official
journal of
friendly
society.

(2) Where a copy of the official newspaper or journal of a friendly society containing the statement is sent to a member the statement shall be deemed to be furnished to him within the meaning of subsection 1.

How
distributed
in the case of
friendly
societies.

(3) Instead of furnishing such statement to each member the society may transmit to each lodge or branch, for the information and use of its members, at least ten copies of the statement; and one copy shall be kept posted up at the head office of the society in a place accessible and convenient to the members until at least one month after the posting up of the next succeeding statement, and one copy shall be kept on record and shall be accessible to the members.

Fire insur-
ance com-
panies.

(4) In the case of fire insurance companies, other than those transacting purely non-hazardous mutual business, a copy of such summary statement shall be published in a newspaper published in the county or district in which the head office of the company is located on or before the fifteenth day of February in every year and proof of publication shall be filed with the Superintendent on or before the fifth day of March next following, in default of which the Superintendent shall cause such publication to be made at the expense of the company.

No different
statement to
be published.

(5) No statement purporting to show the financial condition of any Provincial corporation which differs from the statement filed with the Superintendent shall be published or circulated. 2 Geo. V. c. 33, s. 106 (2-5).

Valuing an-
nuities, etc.,
in statement
of liabilities.

107. In the case of an insurance corporation licensed under section 62 every contract of annuity upon life and every unmatured policy or contract of life, including endowment, or toutine, or semi-toutine insurance, required to be valued for a true showing of the corporation's liabilities shall be valued as provided by Schedule C. 2 Geo. V. c. 33, s. 107.

Annual
statement
to the
Registrar.

108.—(1) The presiding officer and the manager or secretary of every registered insurance corporation except those mentioned in sections 69, 70 and 71 shall prepare and file annually with the Superintendent as hereinafter prescribed, on a printed form to be furnished by him on application, a sworn statement of the financial condition and affairs of the corporation.

Statements
of fire
insurance
companies.

(2) In case of fire insurance companies other than those transacting a purely non hazardous mutual business, the statement shall show as a liability the unearned premiums on all cash business in force on the 31st day of December then last past, and shall not show as assets unpaid balances owing by

agents or by other companies which are over three months due or bills receivable on account of the same.

(3) In the case of a company transacting any form of guarantee insurance the statement shall show as a liability the unearned premiums on unexpired contracts computed *pro rata* as at the date of the statement.

Statements of guarantee companies.

(4) A corporation refusing or neglecting to file such statement, or to make prompt and explicit answer to any inquiries at any time put by the Superintendent touching the corporation's contracts or financial affairs, or which contravenes any of the provisions of section 106, shall be liable to suspension of registry.

Consequences of failure to file statement or furnish information.

(5) A friendly society may include in its annual statement a valuation, made by an actuary and verified by his oath, of any or all of the contingent liabilities of the society; and the Registrar may in his annual report publish an abstract of such valuation as part of the society's statement.

Statement of contingent liabilities of friendly society.

(6) In the case of a registered Provincial licensee such statement shall be prepared annually on the first day of January, or within one month thereafter, and shall be filed with the Superintendent on or before the first day of February then next ensuing.

Statements of Provincial licensee, when to be delivered.

(7) In the case of a registered friendly society such statement shall be prepared annually on the first day of January or within one month thereafter and shall be filed with the Registrar on or before the first day of March then next ensuing.

Statements of Friendly Societies, when to be delivered.

(8) With such statement the corporation shall file a certified copy of the summary statement required by section 106.

Copy of summary statement.

(9) For every contravention of this section, the person in default shall incur a penalty of \$50 for each day's default, but not exceeding in the whole \$1,000, recoverable under *The Ontario Summary Convictions Act*.

Penalty.

Rev. Stat. c. 90.

(10) From the statements so filed the Superintendent shall in each year cause to be prepared, printed and distributed a report for the year ending on the 31st day of December next preceding, and such report shall include a list of registered insurance corporations. 2 Geo. V. c. 33, s. 108.

Superintendent's annual report.

109.—(1) It shall be unlawful for any person to represent orally or in writing that the registry of an insurance corporation or the printing or publication of its annual statement in the report of the Superintendent or in any other publication of the Department is a warranty or guarantee of the financial standing of the corporation or of its actual actuarial solvency.

Statements that financial standing warranted by Government prohibited.

Penalty.

(2) For every contravention of subsection 1 the person offending shall incur a penalty of not less than \$200 or more than \$500, recoverable under *The Ontario Summary Convictions Act*.

Prescribed powers of investment not enlarged.

(3) Where the constitution or rules of a corporation, branch or lodge prescribe the securities in which its funds shall be invested, nothing in this section shall enlarge the power of investment. 2 Geo. V. c. 33, s. 109 (1-3).

Power to hold real estate.

(4) Subject to its constitution or rules, any corporation registered under this Act, or any branch or lodge thereof, may hold absolutely for its own use and benefit such real estate as is necessary for the transaction of its business, and when so authorized by the Lieutenant-Governor in Council, may acquire or construct a building larger than is required for the transaction of its business, and may lease any part of such building not so required, and may hold such real estate as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same; but the corporation, branch or lodge shall sell any such last mentioned real estate within seven years after it has been so acquired, otherwise it shall be forfeited to His Majesty for the uses of Ontario. 3-4 Geo. V. c. 35, s. 7.

Loans to and from directors, etc., forbidden.

Exception.

(5) No insurance corporation, branch or lodge shall contract with any of its auditors, trustees, directors, or executive officers for any loan or credit, or borrowing of money, except in the case of a life insurance company, where a loan may be made on the security of its own policies.

Liability of directors, etc., assenting to illegal investments.

(6) Where the trustees, directors or executive officers of an insurance corporation, or of a branch or lodge thereof, make an investment of any of the corporation's money not authorized by law, or lend any money of the corporation, or transfer the beneficial ownership of any of its property or assets to any one of themselves, or to any auditor, all of those who voted in favour of or assented to the investment, loan or transfer, shall be personally liable jointly and severally to repay or restore the money, property or assets so invested, loaned or transferred, with interest and if the Court so determines also with rests.

Action for recovery of money illegally disposed of.

(7) An action for the recovery of such money, property or assets may at any time be brought by a member or shareholder of the corporation on behalf of himself and all other members and shareholders, and all trustees, directors or executive officers may be made defendants; and the burden of proof that he did not vote for or assent to the investment, loan or transfer shall be on every such defendant.

Costs payable in first instance by corporation.

(8) If, in the opinion of the Court, the plaintiff has proved that the investment, loan or transfer was not authorized by law he shall be entitled to his costs out of the funds

of the corporation, and the corporation shall have the right to recover such costs from the defendants personally or from such of them as the Court may determine. 2 Geo. V. c. 33, s. 109 (5-8).

110. Where, on or after the 14th day of April, 1892, a friendly society having its head office elsewhere than in Ontario had or has in the charge, possession, custody, or power of officers or agents resident in Ontario a reserve fund or funds for the security or assistance of members of the society, such fund or funds shall be deemed to be a fund held in trust for members in the jurisdiction of such officers or agents, and they shall be deemed and shall continue to be trustees of such fund or funds until other trustees thereof resident in Ontario are appointed by competent authority; and such trust fund or funds or as much thereof as from time to time shall remain unexpended shall be invested as provided by subsection 1 of section 111. 2 Geo. V. c. 33, s. 109 (9). Reserve funds held in Ontario.

111.—(1) The surplus insurance funds and the reserve fund of a Provincial insurance corporation or of a branch or lodge thereof shall be loaned or invested in the name of the corporation, branch or lodge in Permissible investments.

(a) Any securities in which, under *The Trustee Act*, trustees may invest trust funds, but not including debenture stock; Rev. Stat. c. 121.

(b) Debentures of any municipal or school corporation in Canada; and

subject to the approval of the Lieutenant-Governor in Council,

(c) In terminating debentures of companies registered under *The Loan and Trust Corporations Act*, or of incorporated companies which have, in the Dominion of Canada, for at least five consecutive years been actually supplying gas, water, heat, light, power, or electricity to the public or to any municipal corporation; or of steam, electric or street railway or telegraph or telephone companies in actual operation in Canada, but loans upon the security of, or the investment in the debentures of any of the companies mentioned in this clause shall not in the aggregate exceed one-fifth of the paid-up capital of the company. Rev. Stat. c. 184.

(2) Any uninvested money shall be kept on deposit in the name of the corporation, branch or lodge in a post-office savings bank, or in a chartered bank of Canada, or with a loan company registered under *The Loan and Trust Corporations Act*. 2 Geo. V. c. 33, s. 110. Deposit of uninvested money. Rev. Stat. c. 184.

Persons in service of corporation, to furnish security.

112.—(1) Every officer or person appointed or elected to any office concerning the receipt, safe-keeping or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the by-laws or rules of the corporation, and any person entrusted with the performance of any other service may be required to furnish similar security, and the securities so furnished and then subsisting shall be produced to the auditors at the annual audit.

Minimum in case of Provincial companies

(2) In the case of Provincial insurance companies the security given by the treasurer or other officer having charge of the money of the company shall not be less than \$2,000. 2 Geo. V. c. 33, s. 111.

Books of account and record to be the property of the corporation.

113.—(1) The books used by any auditor, officer, collector or agent for verifying or recording money received for the corporation, branch or lodge shall be the property of the corporation, branch or lodge, and none of the foregoing persons or any solicitor, counsel or other person shall have in them or in any other of the books of account or record of the corporation any ownership or proprietary right, or any right of lien upon them.

Penalty.

(2) Any person who withdraws, withholds or detains any of such books from the possession or control of the trustees, directors or executive officers, or from the receiver or liquidator of the corporation, branch or lodge shall be guilty of an offence and the procedure and penalty shall be as in the case of a contravention of section 98. 2 Geo. V. c. 33, s. 112.

Delivery up of books after decease or bankruptcy of officer.

(3) If a person appointed or elected to an office entrusted with and having in his possession books, money, securities, documents or other property or effects belonging to the corporation, branch or lodge, or relating thereto, dies, resigns, vacates his office or becomes incapacitated by mental or physical debility or becomes bankrupt or insolvent, his legal representative or any other person having them in his possession or custody shall within fifteen days thereafter deliver the same to such person as the trustees, directors or executive officers may appoint. 2 Geo. V. c. 33, s. 113.

DIRECTORS—GENERAL PROVISIONS.

(All Provincial Insurance Companies.)

Application of sections 115 to 120.

114. Sections 115 to 120 shall apply to all Provincial corporations registered on the Insurance Company Register. 2 Geo. V. c. 33, s. 114.

Appointment of manager and other officers.

115.—(1) The directors may from time to time appoint a manager, secretary, treasurer, and such other officers, agents or assistants as they may deem necessary, prescribe their duties and fix their compensation or allowances, and shall

prescribe the amount of and take such security from them as is required by this Act for the faithful performance of their respective duties.

(2) The directors may also, subject to the provisions of this Act, adopt a table of rates, premiums or premium notes, as the case may be, and vary such table from time to time, and may also prescribe the maximum amount of any risk to be undertaken.

Table of
rates.

Maximum
risk.

(3) In the case of all insurance corporations heretofore or hereafter incorporated by or under the authority of this Legislature a regular meeting of the directors shall be held at least once in every three months, and oftener if necessary, for transacting the business of the corporation, and a special meeting may at any time be held on the call of the President or acting President, upon at least three days' notice in writing, stating the business for which the special meeting is called.

Meetings of
the board.

(4) The directors shall keep a record of their proceedings in a book to be known as the Minute Book of the corporation in which also shall be entered the proceedings of all general meetings of the shareholders or members. 2 Geo. V. c. 33, s. 115.

Minute book

116.—(1) The directors may pass by-laws respecting the funds and property of the corporation, the duties of the officers, agents and assistants thereof, the effectual carrying out of the objects contemplated by this Act, the holding of the annual and other meetings, and all such other matters as appertain to the business of the corporation and are not contrary to law, and may from time to time alter and amend such by-laws, except where the repeal would affect the rights of others than the shareholders or members of the corporation or is prohibited by this Act.

Power as to
by-laws.

Exception

(2) Every by-law shall be in writing and under the corporate seal, and shall be entered in a book called the By-law Book, and unless and until amended or repealed by the directors or amended or annulled by a general meeting of the shareholders or members or disallowed by the Superintendent shall be deemed to be a by-law of the corporation.

By-laws of
board to
bind com-
pany.

(3) A copy of every by-law certified by the manager or secretary to be a true copy shall be filed with the Superintendent within seven days after the passing thereof.

Filing with
Department.

(4) A by-law may be disallowed by the Superintendent within one month after it is filed.

Disallowance

(5) Notice of such disallowance shall be forthwith given to the corporation. 2 Geo. V. c. 33, s. 116.

Notice of.

117. The directors shall superintend and have the management of the funds and property of the corporation, and of

General
powers.

all matters relating thereto and not otherwise provided for.
2 Geo. V. c. 33, s. 117.

Re-insur-
ance of
risks.

118. The directors may make arrangements with any other registered corporation for the re-insurance of risks on such conditions with respect to the payment of premiums thereon as may be agreed upon. 2 Geo. V. c. 33, s. 118.

Borrowing
powers.

119. (1) The directors may issue debentures or promissory notes for the loan of money, and may borrow money thereon for any term not exceeding twelve months, and on such conditions as they may deem proper, and may renew the same from time to time for any such term, and the whole of the assets of the corporation, including premium notes shall be liable for the payment of the same at maturity, but no such debenture or promissory note shall be for a less sum than \$100.

Limitation of,
in case of
mutual and
cash-mutual
companies.

(2) In the case of a mutual or cash-mutual insurance company the amount of all the debentures and promissory notes at any one time outstanding shall not exceed one-fourth of the amount remaining unpaid upon its premium notes.
2 Geo. V. c. 33, s. 119.

REMUNERATION OF DIRECTORS.

Remunera-
tion of di-
rectors.

120. At any annual general meeting of the shareholders or members of a corporation, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it shall be lawful to enact by-laws for the remuneration of the directors, and a certified copy of every such by-law shall, within seven days after its passing, be filed with the Superintendent. 2 Geo. V. c. 33, s. 120.

FAILURE TO ELECT DIRECTORS.

Provision
in case of
failure to
elect direc-
tors on proper
day.

121. If an election of directors is not made on the day on which it ought to have been made the company shall not for that cause be dissolved, but the election may be held on a subsequent day, at a meeting to be called by the directors or as otherwise provided by the by-laws of the company, and in such case the directors then in office shall continue to hold office until their successors are elected. 2 Geo. V. c. 33, s. 121.

MUTUAL AND CASH-MUTUAL COMPANIES: THEIR INTERNAL MANAGEMENT.

Application
of secs.
123-153.

122. Sections 123 to 153 shall apply only to mutual and cash-mutual fire insurance companies and to mutual live stock and mutual weather insurance companies. 2 Geo. V. c. 33, s. 122.

1. Admission and withdrawal of members.

123. The company may insure on the premium note plan ^{Premium note plan.} any property within the scope of the company's license, and the maker of the premium note shall from the date of the acceptance of the risk by the company be a member of it. ^{Membership} 2 Geo. V. c. 33, s. 123.

124. Subject to section 125 every member shall be liable ^{Liability of members.} in respect of any loss or other claim or demand against the company to the extent of the amount unpaid upon his premium note and no more. 2 Geo. V. c. 33, s. 124.

125. Any member may with the consent of the directors ^{Members withdrawing} withdraw from the company upon such terms as the directors may lawfully prescribe; and upon such withdrawal his policy shall be cancelled, but he shall nevertheless be liable to be assessed for and to pay his proportion of the losses, expense and reserve to the time of cancelling the policy, and on payment of the amount then payable he shall be entitled to a return of his premium note. 2 Geo. V. c. 33, s. 125.

2. General Meetings.

126.—(1) A meeting of the shareholders and members ^{Annual meeting for election of directors.} for the election of directors shall be held within the first two months of every year at such time and place as may be prescribed by the by-laws of the company.

(2) Before the election the statement mentioned in section ^{Annual statement.} 106 for the year ending on the previous thirty-first day of December shall be presented and read. 2 Geo. V. c. 33, s. 126.

127.—(1) Notice of every annual, general or special ^{Notice of annual or special meetings.} general meeting of the company shall be sent by post to every shareholder and member and shall be published in a newspaper published at or near the place where the head office is located at least two weeks previous to the day of the meeting.

(2) The directors may convene a general meeting of the ^{Power of directors.} company at any time. 2 Geo. V. c. 33, s. 127.

128.—(1) A member of the company shall be entitled ^{Voting powers of members.} at all meetings of the company to the number of votes in proportion to the amount of insurance held by him, according to the following scale: Under \$1,500, one vote; \$1,500 to \$3,000, two votes; and \$3,000 or over, three votes; but no member shall be entitled to vote while in arrear for any assessment or fixed payment due by him to the company.

(2) Where a policy on the premium note plan is made to ^{Where policy made to two or more persons.} two or more persons one only shall be entitled to vote, and the right of voting shall belong to the one first named on the

register of policy holders if he is present, and if not present to the one who stands second and so on.

Cash-mutual
companies
with share
capital.

(3) Where the company is a cash-mutual company and has a share capital every shareholder shall be entitled to the same number of votes as he would be entitled to if the company had been incorporated under *The Ontario Companies Act*. 2 Geo. V. c. 33, s. 128.

Rev. Stat.
c. 178.

Right of mere
applicants.

129. No applicant for insurance shall be competent to vote or otherwise take part in the company's proceedings until his application has been accepted by the directors. 2 Geo. V. c. 33, s. 129.

3. Directors, Qualification, Election, etc.

Qualification
of directors.

130.—(1) No person shall be eligible to be or shall act as a director unless he is a member of the company and insured therein for the time he holds office

(a) In the case of a live stock insurance company to the amount of \$200 at least; and

(b) In the case of every other company to the amount of \$800 at least.

Where com-
pany has a
share
capital.

2) Where the company has a share capital at least two-thirds of the directors shall also be holders of shares each to the amount of not less than \$1,000 upon which all calls have been paid.

Representa-
tion of cor-
porations.

(3) The President or a Director of a corporation which has the qualification which would qualify an individual to be a director shall be eligible to be a director of the company.

Representa-
tion of part-
nerships.

(4) Where a partnership has the qualification which would qualify an individual to be a director of the company one member of the partnership shall be eligible to be a director of the company. 2 Geo. V. c. 33, s. 130.

Number of
directors.

131.—(1) The board shall consist of six, nine, twelve or fifteen directors, as shall be determined by resolution passed at the meeting held under section 19.

Increase or
decrease in
number,
how made.

(2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the company called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a by-law for that purpose at such annual general meeting is given to the secretary of the company at least one month before the holding of the meeting; but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen.

Notice of
proposed
change.

(3) Where such a notice has been given to the secretary that fact shall be stated in the notice of the annual general meeting.

(4) With the copy of the by-law filed with the Superintendent there shall be filed a list of the directors elected thereunder certified under the hands of the chairman and secretary of the meeting. 2 Geo. V. c. 33, s. 131.

Copy of resolution and list of directors to be filed.

132. One-third of the directors shall retire annually in rotation, and at the first meeting of the directors, or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered on the minutes of the meeting. 2 Geo. V. c. 33, s. 132.

Retirement of directors in rotation.

133. At every annual general meeting thereafter one-third of the total number of directors shall be elected for a period of three years, to fill the places of the retiring directors, who shall be eligible for re-election. 2 Geo. V. c. 33, s. 133.

Annual election to fill vacancies.

134. The manager of the company, although he has not the qualification required by section 130, may be a director of the company and may be paid an annual salary under a by-law passed as provided by section 120. 2 Geo. V. c. 33, s. 134.

Manager may be a director. His salary.

135.—(1) No agent, or paid officer, or officer of the bankers of the company, or person in the employment of the company, other than the manager, shall be eligible to be elected as a director or shall interfere in the election of directors.

Certain persons not eligible as directors.

(2) Nothing herein shall apply to a person receiving applications for insurance, or taking to his own use the customary application, survey or policy fee, not exceeding \$1.50 in respect of any one policy, or prevent a director from so doing. 2 Geo. V. c. 33, s. 135.

Fees of director taking application.

136.—(1) The election of directors shall be held and made by such shareholders and members as attend for that purpose in their proper persons, or in the case of a corporation or partnership by a person authorized in writing to represent it.

Election of directors.

(2) The election shall be by ballot.

Ballot.

(3) If two or more members have an equal number of votes, so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors.

Case of a tie at an election.

(4) The directors shall at their first meeting after any such election elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election. 2 Geo. V. c. 33, s. 136.

Election of president and vice-president.

Interim
vacancies
in office.

137. If a vacancy occurs among the directors during the term for which they have been elected by death, resignation, ceasing to have the prescribed qualification, insolvency, or by absence without previous leave of the directors, from three successive regular meetings which shall, *ipso facto*, create such vacancy, the vacancy, in the case of a board limited to six directors, shall be filled, and in the case of a board limited to a number of directors exceeding six, may be filled, until the next annual general meeting, by any person duly qualified chosen by a majority of the remaining directors as soon as may be after the vacancy occurs, and at the next annual general meeting the vacancy shall be filled for the portion of the term still unexpired. 2 Geo. V. c. 33, s. 137.

Quorum of
directors.

138. —(1) Three directors shall constitute a quorum for the transaction of business, and in the case of an equality of votes at any meeting the question shall pass in the negative.

Recording
dissent.

(2) A director disagreeing with the majority at a meeting may have his dissent recorded with his reasons therefor. 2 Geo. V. c. 33, s. 138.

4. Premium Notes and Assessments.

Company
may accept
premium
notes.

139. —(1) The company may accept the premium note of the assured for insurance, and may undertake contracts in consideration thereof, and such notes shall be assessable for the losses, expenses and reserve of the company in the manner hereinafter provided.

Nothing
but notice
to appear
on same
paper.

(2) Nothing except the notice provided for by section 150 shall be written upon the same paper upon which a premium note is written and a violation of this section shall render the premium note absolutely void. 2 Geo. V. c. 33, s. 139.

Minimum
rates.

140. The rate to be charged or taken by way of premium note for insuring first-class isolated non-hazardous property shall not be less than one dollar per one hundred dollars per annum, and the minimum rate of insurance upon other property shall be increased relatively with the increased risk according to the nature of such property; but a rate less than \$1 per \$100 of the amount insured per annum may be charged or taken when and so long as the total amount at risk exceeds \$2,000,000, and the total assets of the company do not fall below two per centum of the total amount at risk, or so long as the company keeps on deposit with the Minister the full amount prescribed by this Act. 2 Geo. V. c. 33, s. 140.

Part pay-
ment may be
demanded at
the time of
application
for insur-
ance.

141. —(1) The directors may demand in cash a part or first payment on the premium note at the time of the application for insurance, and such first payment shall be credited upon the premium note or against future assessments, but not more than sixty per centum of any premium note shall be paid in cash at the time of the application or of effecting the insurance.

(2) Instead of requiring the whole of the first payment to be made in cash at the time of the application for insurance, the directors may make the same payable in annual instalments, the first of which shall be payable at the time of the application for insurance, and the remaining instalments shall be respectively payable on the first day of each subsequent year of the term of insurance.

First payment on premium note may be made in annual instalments.

(3) Such annual instalments may be known and described as "the first (or second, or as the case may be) fixed payment."

Numbered.

(4) Non-payment of any fixed payment subsequent to the first shall forfeit the insurance if the fixed payment remains unpaid for thirty days after notice of its non-payment has been mailed to the person by whom it is payable, directed to his post office address given in the original application, or otherwise given in writing to the company, or if such fixed payment is not made when it becomes due where thirty days' notice in writing of its becoming payable has been so given.

When non-payment of subsequent premiums to effect forfeiture.

(5) On every premium note taken for insurance by a mutual fire insurance company incorporated after the first day of June, 1904, there shall be payable at the commencement of each year of insurance a fixed sum amounting to at least one-fifth of one per centum of the sum insured; and the premium note shall, as to the residue thereof, be subject to assessment by the directors. 2 Geo. V. c. 33, s. 141.

In case of mutual fire companies, fixed sums, to be paid annually.

142.—(1) All premium notes shall be assessed by the directors at such intervals from their respective dates for such sums as they may determine, and for such further sums as they may deem necessary and as are authorized by this Act, for losses, expenses and reserve during the currency of the policies for which such notes were given, and in respect of which they are liable to assessment; and every member of the company who has given a premium note shall pay the sums from time to time payable by him to the company during the continuance of his policy in accordance with the assessment, and the assessment shall become payable in thirty days after notice thereof has been mailed to the member who has given the premium note, directed to his post office address, given in the original application, or otherwise given in writing to the company.

Assessment on premium note.

Notice to be given of the assessment.

(2) If the property insured has been mortgaged by the member and the company has assented to the mortgage it shall be necessary that the notices mentioned in subsection 4 of section 141 and subsection 1 of this section be also mailed to the mortgagee if his post office is known to the company. 2 Geo. V. c. 33, s. 142.

When mortgagee to be notified.

Policy void,
if assessment
or note is
not paid
within
thirty days;

Revivor by
subsequent
payment.

Assured's
liability.

Requisites of
notice of
assessment.

Assessment,
how propor-
tioned.

Return of
premium
note after
insurance
ended.

Company
may sue for
assessments
on premium
notes.

143.—(1) If an assessment is not paid within thirty days after notice mailed as provided by section 142 the contract of insurance in respect of which the assessment has been made shall be null and void as to all claim for loss occurring during the time of non-payment; but the contract shall be revived when the assessment has been paid unless the secretary gives notice to the contrary to the person assessed in the manner in this Act provided.

(2) Nothing herein contained shall relieve the assured from his liability to pay the assessment or any subsequent assessments, nor shall he be entitled to recover the amount of any loss or damage which happens to property insured under the contract while the assessment remains due and unpaid, unless the directors determine otherwise.

(3) A notice of assessment so mailed shall be sufficient if it states the register number of the contract, the period over which the assessment extends, the amount of the assessment, the time when and the place where it is payable. 2 Geo. V. c. 33, s. 143.

144. Subject to the provisions of section 140 the assessment shall always be in proportion to the amount of the premium notes, but where a company alters its premium note rate and still holds in respect of subsisting contracts premium notes at the prior rate the company, as between the respective premium notes so differing in rate may make and levy such differential assessments as will in risks of the same amount and of the same class of hazard equalize the cost of insurance to the makers of the respective premium notes. 2 Geo. V. c. 33, s. 144.

145. On the expiration of forty days after the term of insurance has ended the premium note given for the term shall be null and void, except as to the first payment or fixed payments remaining unpaid, and as to lawful assessments of which the prescribed written notice has been given to the maker of the premium note during the currency of the policy or within such period of forty days, and on the expiration of such period the premium note shall, upon application therefor, be given up to the maker, provided all liabilities with which the premium note is chargeable have been paid. 2 Geo. V. c. 33, s. 145.

146. If, for thirty days after notice of an assessment so mailed, a member who has given a premium note refuses or neglects to pay the assessment the company may sue for and recover the same with costs of suit, and such proceeding shall not be a waiver of any forfeiture incurred by such non-payment. 2 Geo. V. c. 33, s. 146.

147. Where an action is brought to recover the assessment the certificate of the secretary of the company, specifying the assessment and the amount due on the note in respect of such assessment shall be *prima facie* evidence thereof in any Court. 2 Geo. V. c. 33, s. 147.

Evidence of amount due to the company.

148. The company may form a reserve fund, to consist of all moneys which remain on hand at the end of each year after payment of ordinary expenses and losses, and for that purpose may make an annual assessment not exceeding ten per centum on the premium notes held by the company, and the reserve fund may from time to time be applied by the directors to pay off such liabilities of the company as may not be provided for out of the ordinary receipts for the same or any succeeding year. 2 Geo. V. c. 33, s. 148.

Reserve fund.

Annual assessment.

How applied.

149. If there is a loss on property insured the directors may retain the amount of the premium note until the time has expired for which insurance has been made, and at the expiration of such time the assured shall have the right to demand and receive such part of the retained sum as has not been assessed for. 2 Geo. V. c. 33, s. 149.

Directors may retain amount of premium notes.

150. Any action upon any premium note or for an assessment thereon cognizable in a division court may be entered, tried and determined in the court for the division wherein the head office or any agency of the company is located, where and where only within the body of such note, or across the face thereof, there was at the time of the making of it printed in conspicuous type, and in ink of a colour different from any other in or on such note, the words following: "Any action which may be brought or commenced in a Division Court in respect or on account of this note, or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the Division Court for the division wherein the head office or any agency of the company is located." 2 Geo. V. c. 33, s. 150.

Actions in division courts where brought.

151. No premium note shall create a lien upon the land on which the insured property is situate. 2 Geo. V. c. 33, s. 151.

Premium notes not to create lien on land.

152.—(1) A registered cash-mutual fire insurance company may effect insurance upon the cash-premium plan, for a period not exceeding three years, on farm and other non-hazardous property, and for one year or less on any other class of property, but the amount of premiums received on cash insurances in any one calendar year shall not exceed four times the amount which the company has then on deposit with the Minister.

Powers of incorporated companies to insure on the cash-premium principle.

(2) If at any time the amount of such premiums exceeds the amount authorized by subsection 1 the company shall at

When deposit must be increased.

once increase its deposit to an amount sufficient to warrant the excess, and in default the Minister may suspend or cancel its license.

What funds
liable for
losses.

(3) All the property and assets of the company, including premium notes, shall be liable for all losses under contracts of insurance for cash premiums. 2 Geo. V. c. 33, s. 152.

5. Executions Against Mutual and Cash-Mutual Companies.

When execu-
tion upon
judgment
against
company.

153.—(1) No execution shall issue against a mutual or cash-mutual company upon a judgment until after the expiration of sixty days from the recovery thereof, but this section shall not apply to a judgment recovered on a contract of insurance where more than sixty per centum of the premium, or premium note, was paid in cash at the time of the insurance or the application therefor.

When order
may be made
for issue.

(2) A Judge of the Supreme Court or the Master in Chambers, after the recovery of a judgment against the company, upon the application of the judgment creditor and upon notice to the company, may inquire into the facts, and if he finds that more than sixty per centum of the premium note was paid in cash at the time of the insurance, or upon the application therefor, he may direct that execution be issued forthwith upon such judgment. 2 Geo. V. c. 33, s. 153.

GENERAL PROVISIONS RELATING TO CONTRACTS OF INSURANCE.

Application
of sections
155 to 158.

154. Except where otherwise provided sections 155 to 158 shall apply to every contract of insurance. 2 Geo. V. c. 33, s. 154.

Contracts to
be deemed
made in
Ontario.

155.—(1) Where the subject-matter of a contract of insurance is property or an insurable interest in property within Ontario, or is a person domiciled or resident therein, the contract of insurance, if signed, countersigned, issued or delivered in Ontario or committed to the post office or to any carrier, messenger or agent to be delivered or handed over to the assured, his assign or agent in Ontario, shall be deemed to evidence a contract made therein, and the contract shall be construed according to the law thereof, and all moneys payable under the contract shall be paid at the office of the chief officer or agent in Ontario of the insuring corporation in lawful money of Canada.

Idem.

(2) This section shall have effect notwithstanding any agreement, condition or stipulation to the contrary. 2 Geo. V. c. 33, s. 155.

Terms, etc.,
of contracts
invalid un-
less set out
in full.

156.—(1) Subject to the provisions of section 193 all the terms and conditions of the contract of insurance shall be set out in full on the face or back of the policy or by writing securely attached to it when issued, and unless so set out

no term of the contract or condition, stipulation, warranty or proviso modifying or impairing its effect shall be valid or admissible in evidence to the prejudice of the assured or beneficiary.

(2) Whether the contract does or does not provide for its renewal but it is renewed by a renewal receipt it shall be a sufficient compliance with subsection 1, if the terms and conditions of the contract were set out as provided by that subsection and the renewal receipt refers to the contract by its number or date.

(3) The proposal or application of the assured shall not as against him be deemed a part of or be considered with the contract of insurance except in so far as the Court may determine that it contains a material misrepresentation by which the insurer was induced to enter into the contract.

(4) A registered friendly society instead of setting out all the terms and conditions of the contract in the instrument of contract may indicate therein by particular references those articles or provisions of the constitution, by-laws or rules which contain the material terms of the contract not set out in the instrument of contract, and the society, at or prior to its delivery, shall also deliver to the assured a copy of the constitution, by-laws and rules therein referred to.

(5) No contract of insurance shall contain or have endorsed upon it, or be made subject to, any term, condition, stipulation, warranty or proviso, providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the corporation, unless such term, condition, stipulation, warranty or proviso is limited to cases in which such statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

(6) The question of materiality in any contract of insurance shall be a question of fact for the jury, or for the Court if there is no jury; and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, or in the instrument of contract, or in any agreement or document relating thereto shall have any force or validity.

(7) Nothing in this section shall impair the effect of the provisions of sections 194 to 201. 2 Geo. V. c. 33, s. 156.

157. Every corporation shall furnish to the assured upon request a true copy of his application or proposal for insurance. 2 Geo. V. c. 33, s. 157.

Consolidation of actions for insurance money.

158.—(1) Where several actions are brought for the recovery of money payable under a contract of insurance the Court may consolidate or otherwise deal therewith so that there shall be but one action for and in respect of all the claims made in such actions.

Where infants are entitled to insurance money.

(2) Where an action is brought to recover the share of one or more infants all the other infants entitled, or the trustees, executors, or guardians entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.

Apportionment of sums directed to be paid.

(3) In all actions where several persons are interested in the insured money the Court or Judge may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.

Action for annuity or recurring payment.

(4) In an action commenced in a Division Court or a County or District Court for any insurance or benefit alleged to be payable to the assured or any beneficiary, assignee, representative or guardian, when the insurance or benefit claimed is in the nature of an annuity, or other periodical or recurring payment, so that the present or capitalized value of the insurance or benefit amounts or may amount to a sum beyond the jurisdiction of the Court, the action may upon the application of the defendant be removed into the Supreme Court upon such terms and conditions as to costs and otherwise as the Court may direct.

When payee is domiciled or resident abroad.

(5) Where the person entitled to receive money due and payable under any contract of insurance, except insurance of the person, is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of such jurisdiction, is made to such person, such payment shall be valid and effectual for all purposes. 2 Geo. V. c. 33, s. 158.

Effect of delivery of policy or receipt for premium.

159.—(1) Where the contract of insurance has been delivered it shall be as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had not authority to deliver it.

Right of insurer in respect of unpaid premium.

(2) The insurer may sue for the unpaid premium and may deduct the same from the amount for which he may become liable under the policy or contract of insurance.

Section to prevail over agreement.

(3) This section shall have effect notwithstanding any agreement, condition or stipulation to the contrary.

Where note or cheque for premium not paid.

(4) Where the premium is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note at maturity the contract shall at the option of the insurer be void. 2 Geo. V. c. 33, s. 159.

GUARANTEE INSURANCE.

160.—(1) Every contract of title insurance shall be in writing, and in addition to the other requirements prescribed by this Act shall expressly limit the liability of the insurer to a sum stated in the contract. Contracts of Title Insurance.

(2) If any question arises as to the validity of the title insured, or as to the liability of the insurer, the insurer or the assured or any person entitled to proceed in right of either may by application have such question determined as provided in *The Vendors and Purchasers' Act* in the case of vendors and purchasers. Questions as to validity of title. 2 Geo. V. c. 33, s. 160. Rev. Stat. c. 122.

161. No guarantee company incorporated under this Act shall undertake or transact title insurance or credit insurance unless expressly empowered to do so by the Letters Patent of incorporation. Special power required to transact title or credit insurance. 2 Geo. V. c. 33, s. 161.

INSURANCE OF THE PERSON.

1. *General provisions applicable to all Insurers.*

162. Sections 163 to 190 shall apply to insurance of the person. 2 Geo. V. c. 33, s. 162. Application of secs. 163 to 190.

163.—(1) In insurance of the person, "heirs," "legal heirs" or "lawful heirs" shall in a contract of insurance mean and include all the lawful surviving children of the assured and also the wife or husband if surviving the assured, or where the assured died without lawful surviving children and unmarried it shall mean those persons entitled to take according to *The Devolution of Estates Act*. "Heirs," "legal heirs," or "lawful heirs," meaning of. Rev. Stat. c. 119.

(2) This section shall in the case of an assured dying after the 19th day of March, 1910, apply to insurance of the person effected on or before the 13th day of April, 1897 and to all such insurances thereafter effected. 2 Geo. V. c. 33, s. 163. Application of section.

164.—(1) Where the money payable by way of premiums, dues or assessments, not being the initial premiums, dues or assessments under a contract, is unpaid, the assured or any beneficiary under the contract, or the executors, administrators or assigns of the assured or of any beneficiary may, within thirty days from and including the first day on which the money is due, pay, deliver or tender to the company at its head office, or at its chief agency in Ontario, or to the company's collector or authorized agent, the sum in default. Days of grace for payment of premiums.

(2) The payment, delivery or tender may be by sending the money in a registered letter, and it shall be deemed to have been paid, delivered or tendered at the time of the delivery and registration of the letter at a post office in Ontario. Transmission of premium by registered post.

Effect of
payment
during days
of grace.

(3) On such payment, delivery or tender, the contract shall be *pro facto* revived notwithstanding any agreement or stipulation to the contrary.

Statutory
period to be
concurrent
with days of
grace.

(4) Such thirty days shall run concurrently with the period of grace or credit if any allowed by the insurer for the payment of a premium or an instalment of premium.

Assessments
by benefit
societies.

(5) This section shall not extend the time allowed by subsection 1 of section 188 for the payment of contributions or assessments. 2 Geo. V. c. 33, s. 164.

Limitation
of actions.

165.—(1) Subject to the provisions of section 89 and of subsections 2 to 9, notwithstanding any agreement, condition or stipulation to the contrary, any action or proceeding against the insurer for the recovery of any claim under the contract of insurance may be commenced at any time within one year next after the cause of action arose and not afterwards.

Where
death is
presumed.

(2) Where death is presumed from the person on whose life the insurance is effected not having been heard of for seven years any action or proceeding may be commenced within one year and six months from the expiration of such period of seven years, but not afterwards.

Where death
becomes
known.

(3) Where the death of the person on whose life the insurance is effected is unknown to the person entitled to claim under the contract an action or proceeding may be brought within one year and six months after the death becomes known to him but not afterwards, but where the death is presumed as mentioned in subsection 2 this subsection shall not entitle the claimant to bring an action or proceeding after the time mentioned in that subsection.

Where
action pre-
maturely
brought.

(4) Where an action or proceeding brought within the prescribed period fails because of its having been prematurely brought, and on that ground only, the plaintiff shall be entitled to bring a new action or proceeding at any time within the prescribed period or within six months after the final determination of the first action or proceeding.

Obtaining
declaration
of presump-
tion of
death.

(5) Where a claim is made against an insurer on the ground that the person on whose life the insurance is effected is presumed to be dead by reason of his not having been heard of for seven years, and his death is the sole issue between the parties other than disputes as to the persons entitled, such insurer may, before or after action brought, upon at least ten clear days' notice served on the claimant or his solicitor, apply to a Judge of the Supreme Court in Chambers for a declaration as to the presumption of the death.

Application
to Judge.

Finding of
Judge.

(6) If the Judge is satisfied that a presumption of death has been established he shall so find and his finding shall, subject to appeal, be binding and conclusive upon all parties

interested as establishing the presumption of death, and he may make such order as to the payment of the insurance money as he may deem just.

(7) The payment by the insurer as so ordered shall discharge him from all liability under the contract of insurance. Effect of payment.

(8) Where the Judge declares that the presumption of death has not been established he may make such other order as he may deem just. Powers of judge.

(9) Unless otherwise ordered by the Judge the application shall operate as a stay of any pending action based upon such presumption. 2 Geo. V. c. 33, s. 165. Stay of proceedings.

166.—(1) Where the age of a person is material to a contract of insurance and was given erroneously in any statement or warranty made for the purposes of the contract, such contract shall not be avoided by reason only of the age being other than as stated or warranted if it appears that such statement or warranty was made in good faith and without any intention to deceive, but the person entitled to recover on such contract shall not be entitled to recover more than an amount which bears the same ratio to the sum that such person would otherwise be entitled to recover as the premium proper to the stated age bears to the premium proper to the actual age, both being taken as at the date of the contract, but in no case shall the amount recoverable exceed the amount stated or indicated in the contract. Error in age not to void contract, but benefit to abate.

(2) Where the application for and contract of insurance expressly limit the insurable age, and the actual age at the date of the application exceeds the age so limited, the contract shall, during the lifetime of the person on whose life the insurance was effected and not later than five years from the date of the contract, be voidable at the option of the insurer within thirty days after the error comes to his knowledge. Proviso.

(3) If the error includes a fractional part of a year exceeding a half year such fractional part shall be computed as a whole year, but if the fractional part does not exceed a half year it shall be disregarded in the computation. Fractional part of a year.

(4) Where by the terms and for the purposes of the contract, the age was taken to be greater than the actual age the number of years added to such age shall, for the purposes of the calculation, be added to the actual age. Computation of the additional years.

(5) Where an error is discovered in respect of a contract of insurance, or of any premium paid or to be paid upon such contract, nothing herein contained shall at any time before the maturity of the contract prevent an adjustment between the insurer and the assured of the amount of the insurance effected or of any premium paid or to be paid. Right to adjust error at any time before maturity of contract.

(6) For the purposes of this section "premium" shall mean the net annual premium as shown in or deduced from the Hm Tables of the Institute of Actuaries of Great Britain, "Premium."

the rate of interest being taken at four and one-half per centum per annum. 2 Geo. V. c. 33, s. 166 (1-5).

Notice to insured that age is material and that proof is required.

(7) Subject to the provisions of the previous subsections of this section, every corporation registered under this Act shall send to every person with whom a contract is made, within one month thereafter, a printed notice mailed to the last known address of the insured in such form as the Superintendent shall approve, and annually thereafter until proof of age is admitted, stating that the age of the insured is material to the contract, and that evidence that the age stated in the application is the true age of the insured will be required before the policy is paid; and such notice shall also be printed in red ink in type not smaller than 10 point upon all notices to the insured and upon all receipts for premiums.

Not to apply to industrial insurance.

(8) Subsection 7 shall not apply to contracts issued under the industrial plan.

Friendly societies may publish in official journal.

(9) Subsection 7 shall not apply to a registered friendly society, provided that the notice mentioned therein is published on the first page of the official newspaper or journal of the society, in each issue thereof, and printed in red ink in type not smaller than 10 point upon all certificates issued by the society, and upon all receipts or pass-books issued to the members.

When age to be deemed admitted.

(10) Upon failure of a corporation to comply with the provisions of subsection 7, the corporation shall be deemed to have admitted the age mentioned in the application as the correct age. 3-4 Geo. V. c. 35, s. 8.

Retrospective application.

(11) This section shall apply not only to any future application for, or contract of insurance, but also to any application heretofore taken and to any contract heretofore made. 2 Geo. V. c. 33, s. 166 (6).

Valuation tables.

167. To facilitate the use of the said Hm. Tables for any of the purposes of this Act such tables may be taken as they appear in any published edition or collection of standard actuarial or valuation tables, or in the appendices to the detailed reports of 1905 and 1906 of the Inspector of Insurance and Registrar of Friendly Societies printed by order of the Assembly. 2 Geo. V. c. 33, s. 167.

Suicide shall not render contestable an incontestable policy unless so stated.

168. Where a contract of insurance provides in terms or in effect that the contract shall be indisputable or incontestable it shall not be disputable or contestable on the ground that the assured committed suicide unless in express terms it is so stipulated by the contract and is so stated in the application on which the contract is founded. 2 Geo. V. c. 33, s. 168.

169.—(1) It shall be necessary for the validity of a contract of insurance that the beneficiary under it, if he is not the person on whose life the insurance is effected, or the parent, or *bona fide* donee, grantee or assignee, or a person entitled under the will of such person, or by operation of law, shall have at the date of the contract a pecuniary interest in the duration of the life or other subject insured, but any otherwise lawful contract of annuity upon life shall not require for its validity that the annuitant has or at any time had an insurable interest in the life of the nominee.

Insurable interest necessary to support contract.

(2) Where a pecuniary interest is necessary the insurer shall not be liable under the contract for more than the amount or value of the pecuniary interest.

Extent of liability.

(3) No corporation shall insure the life of a child whose age at the time of insurance is not at least one year, or insure or pay on the death of a child under ten years of age any sum which alone or together with any sum payable on the death of such child by any other corporation exceeds respectively—

Sums insurable at ages less than ten.

\$32—	If the child dies under the age of 2 years.
40—	“ “ “ 3 “
48—	“ “ “ 4 “
56—	“ “ “ 5 “
83—	“ “ “ 6 “
120—	“ “ “ 7 “
160—	“ “ “ 8 “
200—	“ “ “ 9 “
260—	“ “ “ 10 “

(4) Nothing in subsection 3 shall apply to such insurances as were in force on the 14th day of April, 1892, or to an insurance on the life of a child of any age where the person effecting the insurance has a pecuniary interest in the life.

Proviso.

(5) Where the age of the child at the date of the contract is less than ten years and the insurer has knowingly or without sufficient inquiry entered into any contract prohibited by this section the premiums paid thereunder shall be recoverable from the insurer by the person paying the same together with interest thereon.

Where insurance excessive.

(6) Every corporation which undertakes or effects insurances on the lives of children under ten years of age shall print subsections 1 to 5 in conspicuous type upon every circular soliciting, and upon every application for, and every contract of such insurance; and any contravention of this subsection shall be punishable in the manner provided by section 98.

Subsecs. 1 to 5 to appear on circular, etc.

(7) Instead of printing the matter mentioned in subsection 6 the corporation may with the consent in writing of the Superintendent print or stamp the following words in lieu

Notice in lieu of printing subsections.

thereof:—“Any insurance undertaken or offered to be undertaken in Ontario in respect of the lives of children under ten years of age is subject to the restrictions prescribed by section 169 of *The Ontario Insurance Act*.”

Insurance of minors effected by parents.

(8) An insurance heretofore or hereafter effected by a parent upon the life of his child under twenty-one years of age shall not be invalid by reason only of the parent's want of pecuniary interest in the life of the child.

Capacity of minors of fifteen years and upwards to insure.

(9) A person not of the full age of twenty-one years, but of the age of fifteen years or upwards, may effect insurance on his own life for his own benefit, or for the benefit of a preferred beneficiary or of a father, brother or sister, which, if he had been of full age he might have lawfully effected, and notwithstanding his minority he may surrender such insurance or give a valid discharge for any benefit accruing or for money payable under the contract. 2 Geo. V. c. 33, s. 169; 3-4 Geo. V. c. 35, s. 9.

Application of ss. 171 to 182.

170. Except in so far as the same are inconsistent with the provisions of this Act relating to contracts made or declared to be for the benefit of a preferred beneficiary or preferred beneficiaries, sections 171 to 182 shall apply to all contracts of insurance of the person and declarations whether made before or after the passing of this Act. 2 Geo. V. c. 33, s. 170.

Insurable interest of adult in own life.

171.—(1) Every person of the full age of twenty-one years shall have an unlimited insurable interest in his own life and may effect *bona fide* at his own charge insurance of his own person for the whole term of life, or any shorter term for the sole or partial benefit of himself, or of his estate, or of any other person, whether the beneficiary has or has not an insurable interest in the life of the assured, and the insurance money may be made payable to any person for his own use or as trustee for another person.

Rights of creditors.

(2) If the premiums on such insurance were paid by the assured with intent to defraud his creditors they shall be entitled to receive out of the insurance money an amount not exceeding the premiums so paid and interest thereon.

Beneficiary, how designated.

(3) The assured may designate the beneficiary by the contract of insurance or by an instrument in writing attached to or endorsed on it or by an instrument in writing, including a will, otherwise in any way identifying the contract, and may by the contract or any such instrument, and whether the insurance money has or has not been already appointed or apportioned, from time to time appoint or apportion the same, or alter or revoke the benefits, or add or substitute new beneficiaries, or divert the insurance money wholly or in part to himself or his estate, but not so as to alter or divert the benefit of any person who is a beneficiary for value, nor so

as to alter or divert the benefit of a person who is of the class of preferred beneficiaries to a person not of that class or to the assured himself or to his estate.

(4) Where the instrument by which a declaration is made is a will such declaration as against a subsequent declaration shall be deemed to have been made at the date of the will and not at the death of the testator. Effect of declaration by will.

(5) Where the declaration describes the subject of it as the insurance or the policy or policies of insurance or the insurance fund of the assured, or uses language of like import in describing it, the declaration, although there exists a declaration in favour of a member or members of the preferred class of beneficiaries, shall operate upon such policy or policies to the extent to which the assured has the right to alter or revoke such last mentioned declaration. Operation of general declaration.

(6) The assured may, by the contract or by a declaration or by any writing under his hand, appoint a trustee or trustees of the insurance money and may from time to time revoke such appointment in like manner and appoint a new trustee or trustees and make provision for the appointment of a new trustee or trustees, and for the investment of the insurance money, and payment made to such trustee or trustees shall discharge the insurer. Appointment of trustees.

(7) A beneficiary shall be deemed to be a beneficiary for value only when he is expressly stated to be so in the contract or in an endorsement thereon signed by the assured. Beneficiary for value.

(8) Nothing in this Act shall restrict or interfere with the right to effect or assign a policy in any other manner allowed by law. Other modes of assignment not affected.

(9) Where there are several beneficiaries, if one or more of them die in the lifetime of the assured and no apportionment or other disposition is subsequently made by him, the insurance shall be for the benefit of the surviving beneficiary or beneficiaries, in equal shares if more than one; and if all the beneficiaries, or the sole beneficiary, die in the lifetime of the assured and no other disposition is made by him the insurance shall form part of the estate of the assured. Provision in case of death of persons entitled where no apportionment.

(10) Until the insurer has received the original or a copy of an instrument in writing affecting the insurance money or any part thereof, or of any appointment or revocation of an appointment of a trustee, the insurer may deal with and obtain a valid discharge from the assured, or with and from his beneficiaries, or with and from his trustees, executors, administrators or assigns in the same manner and with the like effect as if such instrument in writing, appointment, or revocation had not been made, but nothing in this subsection shall affect the right of any person entitled by virtue of such instrument, appointment, or revocation to recover insurance Protection of insurer in paying insurance before notice of declaration.

money from the person to whom it has been paid by the insurer. 2 Geo. V. c. 33, s. 171.

What accident includes.

172.—(1) In every contract of insurance against accident or casualty or disability, total or partial, the event insured against shall include any bodily injury occasioned by external force or agency, and happening without the direct intent of the person injured, or as the indirect result of his intentional act, such act not amounting to voluntary or negligent exposure to unnecessary danger and no term, condition, stipulation, warranty or proviso of the contract varying the obligation or liability of the assurer shall as against the assured have any force or validity.

Right to terminate insurance against accident or sickness.

(2) In any such contract and in any contract of insurance against sickness, if the insurer reserves the right to terminate it during its currency, the assured shall have the right to terminate it by giving seven days' notice to the insurer, in which case the insurer may retain the customary short rate for the time the insurance has been in force, and shall repay to the assured the residue of the premium paid by him notwithstanding any stipulation or agreement to the contrary. 2 Geo. V. c. 33, s. 172.

Maximum named in contract shall *prima facie* be payable.

173.—(1) Where the event on the occurrence of which any benefit or insurance money is payable under the contract has happened, but the amount payable is in dispute, it shall *prima facie* be the maximum amount stated or indicated in the contract.

Where maximum disputed claimant entitled to inspect insurer's books.

(2) If, when a claim accrues under a contract, the insurer offers the claimant a less sum than the maximum named or indicated in the contract, and either offers no explanation or alleges as a reason for not paying the maximum that the insurer's general contract fund or some other fund is insufficient, the claimant, on written notice to the insurer, shall be entitled, as of right, to inspect personally or by agent all books and documents relating to the contract funds generally or the fund alleged to be insufficient.

Claimant may have order from Superintendent to inspect.

(3) If the insurer refuses or neglects to afford the claimant a reasonable opportunity of inspection the claimant may file with the Superintendent an affidavit to the effect that he rightfully claims under a contract of the insurer, giving particulars sufficient to identify the contract, and that the insurer has not afforded him such opportunity of inspection, and the Superintendent may, under his hand and seal, give the claimant or his agent an order to inspect on a day named; and neglect or refusal thereafter to afford him an opportunity of inspection shall be an offence punishable in the manner provided by section 98. 2 Geo. V. c. 33, s. 173.

Insurance money, how payable.

174. When the insurance money becomes payable it shall be paid within the time mentioned in section 89; and where

the insurance money or part thereof is for the benefit, in whole or in part, of infants before paying the money to which they are entitled the insurer may require reasonable proof of the number, names and ages of such infants. 2 Geo. V. c. 33, s. 174. Proof of ages, etc., of infants.

175.—(1) If no trustee of the insurance money is named or appointed shares of infants may be paid to a trustee appointed by the Supreme Court upon the application of the widow of the assured, or of the infants or of their guardian, and such payment shall be a discharge to the insurer. 3-4 Geo. V. c. 35, s. 10, *part*. Where no trustee, payment of shares of infants.

(2) Where insurance money not exceeding \$3,000 is payable to the wife and children of the assured, and some or all of the children are infants, the court may appoint the widow of the assured, if she is the mother of such infants, as their guardian without security and such insurance money may be paid to her as such guardian. 2 Geo. V. c. 33, s. 175 (3); 3-4 Geo. V. c. 35, s. 10, *part*. Appointment of mother without security.

(3) A trustee, subject to the terms of the trust instrument, or a guardian may invest the money received in any security in which trustees under the law of Ontario may invest trust funds, and may from time to time alter, vary and transpose the investments; and where the money is held for infants may also apply all or part of the annual income arising from the share or presumptive share of each of the infants in or towards his maintenance and education in such manner as the trustee or guardian thinks fit, and may also with the approval of the Supreme Court or a Judge thereof advance to and for any of the infants, notwithstanding his minority, the whole or any part of his share for his advancement or preferment in life or on his marriage. 2 Geo. V. c. 33, s. 175 (4); 3-4 Geo. V. c. 35, s. 10, *part*. Investment of shares. Application of infants' shares.

176.—(1) If there is no person competent to receive the share of an infant or lunatic at the time of the maturity of the contract, and the insurer admits the claim or any part thereof, he shall pay such share into the Supreme Court to the credit of the infant or lunatic, and such payment shall be a sufficient discharge to the insurer for the money paid, and the money shall be dealt with as the Court may direct. 2 Geo. V. c. 33, s. 176 (1); 3-4 Geo. V. c. 35, s. 11 (1). Insurer may pay money into court.

(2) An order allowing the payment into Court shall not be necessary, but the payment shall be made with the privity of the Accountant of the Supreme Court. No order necessary.

(3) In the case of an infant the insurer shall at the time of payment into court file with the Accountant an affidavit showing the name and the date of birth of the infant. Names and ages of infants.

(4) Notice of the payment into Court shall be forthwith given by the insurer to the official guardian. Notice of payment into court.

Costs.

(5) The insurer may deduct from the share of the infant or lunatic \$5 for the costs of making the payment into Court. 2 Geo. V. c. 33, s. 176 (2-5).

Where claim admitted, but money not paid.

(6) If the insurer does not within sixty days after the claim has been admitted either pay the insurance money to some person competent to receive it or pay it into Court, the Court or a Judge thereof may upon the application of a person competent to receive the money on behalf of the infant or lunatic, order the insurance money, or any part thereof, to be paid to any person competent to receive the same or to be paid into Court to be dealt with as the Court may direct, and any such payment shall be a discharge to the insurer. 2 Geo. V. c. 33, s. 176 (6); 3-4 Geo. V. c. 35, s. 11 (2).

Death of assured abroad, payment to foreign representative.

177.—(1) Where under a contract made or by law deemed to be made in Ontario, or a contract made by a corporation having its head office or chief agency in Ontario, the insurance money is payable to the representatives of a person who at his death was domiciled or resident in a foreign jurisdiction, if no person has become his personal representative in Ontario, the money may on the expiration of two months after such death be paid to the personal representative appointed by the proper court of the foreign jurisdiction.

When contract directs payment to foreign representative.

(2) Where such a contract provides that the insurance money may be paid to the personal representative appointed by the court of the jurisdiction in which the deceased may be resident or domiciled at the time of his death, the money may be paid to such representative or according to the terms of the contract at any time after the death.

Intestacy: (without representation), payment according to foreign law.

(3) Where under such a contract the insurance money is payable to the representatives of a person who at the time of his death was domiciled or resident in a foreign jurisdiction and died intestate, the money may after the expiration of three months after such death, if no person has become his personal representative in Ontario, be paid to the person entitled according to the law of the foreign jurisdiction to receive the money and give a discharge for the same as if such money were by the terms of the contract payable in such foreign jurisdiction.

Testacy: payment according to foreign law.

(4) Where a testator domiciled or resident in a foreign jurisdiction disposes of the insurance money by a will valid according to the law of that jurisdiction such money may be paid according to the terms of the contract at any time after the death to the person entitled under such will to receive and give a valid discharge for money payable in such foreign jurisdiction.

Where guardian appointed by foreign court.

(5) Where it appears by letters of guardianship or other like document, relating to persons under disability, issued by a court in a foreign jurisdiction, or by a certificate of the

Judge under the seal of such court, that it has been shown to the satisfaction of such court that the assured at the maturity of the contract was domiciled or resident within its jurisdiction, and it also appears that security to the satisfaction of such court in respect of and for the due application and account of the money payable under the contract has been given by the guardian or other like officer appointed by such letters or document, the Supreme Court or a Judge thereof upon application for the appointment of such guardian or like officer as trustee under this section may dispense with the giving of security if it is also shown that the infants or other beneficiaries under disability reside within the jurisdiction of the foreign court, and that the trustee is a fit and proper person.

(6) This section shall apply whether the death has or has not occurred before the passing of this Act. 2 Geo. V. c. 33, s. 177. Application of section.

2. Provisions Applicable to Preferred Beneficiaries.

178.—(1) Preferred beneficiaries shall constitute a class and shall include the husband, wife, children, grand-children and mother of the assured, and the provisions of this and the following three sections shall apply to contracts of insurance for the benefit of preferred beneficiaries. Who shall constitute preferred beneficiaries.

(2) Where the contract of insurance or declaration provides that the insurance money or part thereof, or the interest thereof, shall be for the benefit of a preferred beneficiary or preferred beneficiaries such contract or declaration shall, subject to the right of the assured to apportion or alter as hereinafter provided, create a trust in favour of such beneficiary or beneficiaries, and so long as any object of the trust remains the money payable under the contract shall not be subject to the control of the assured, or of his creditors, or form part of his estate, but this shall not interfere with any transfer or pledge of the contract to any person prior to such declaration. Where trust created by the provisions of the contract for benefit of preferred beneficiaries.

(3) Where two or more beneficiaries are designated but no apportionment is made, all of them shall share equally, and where it is stated in the contract or declaration that the insurance money or any part of it is for the benefit of the wife of the assured only, or of his wife and children generally, or of his children generally, the word "wife" shall mean the wife living at the maturity of the contract and the word "children" shall include as well all the children of the assured living at the maturity of the contract, whether by his then or any former wife, as the children living at the maturity of the contract of any child of the assured who predeceased him, such last mentioned children taking the share their parent would have taken if living, and the like construction shall prevail where the insurance is effected by Insurance or any part for benefit of future wife—or wife and children.

a man while unmarried or a widower for the benefit of his future wife or his future wife and children or of his children.

Where assured has remarried after designation.

(4) Subsection 3 shall apply, whether or not the wife is designated by name: but where the wife is designated by name and predeceases him the assured may revoke or alter such designation as if the wife were not of the class of preferred beneficiaries.

Where assured unmarried or widower without issue.

(5) Where an unmarried man or a widower effects the contract or declares it to be for the benefit of his future wife, or of his future wife and children or of his children, but at maturity of the contract the assured is still unmarried, or is a widower without issue, the insurance money shall form part of his estate.

Where assured does not marry the specified beneficiary.

(6) Where an unmarried man or a widower effects or declares the contract to be for the benefit of his future wife, or future wife and children, and the intended wife is designated by name or is otherwise clearly ascertained in the contract, but the intended marriage does not take place, all questions arising on such contract shall be determined as in the case of a beneficiary not belonging to the preferred class. 2 Geo. V. c. 33, s. 178 (1-6).

Where apportionment made, but beneficiary predeceases assured.

(7) If one or more or all of the designated preferred beneficiaries, whether an apportionment has been made or not, die in the lifetime of the assured or if a sole preferred designated beneficiary dies in his lifetime, he may by a declaration provide that the share or shares of the person or persons so dying shall be for the benefit of the assured or of his estate or of any other person, whether or not such person belongs to the preferred class: and in the absence of any such declaration the share or shares of the person or persons so dying shall be for the benefit, in equal shares, of the survivor or survivors of such designated preferred beneficiaries, except where the person so dying is a child of the assured, and leaves a child or children surviving him, in which case his share and any share to which he would have become entitled if he had survived shall be for the benefit of his child or children, in equal shares, and if there is no such surviving beneficiary and no such child entitled to take, the insurance shall be for the benefit in equal shares, if there is more than one person entitled, of the wife and children of the assured living at his death and the child or children of any deceased child who shall be entitled to the share which the parent if then living would have taken, and if there is no surviving wife, child or grandchild the insurance money shall form part of the estate of the assured. 2 Geo. V. c. 33, s. 178 (7) : 3-4 Geo. V. c. 35, s. 12.

Assured may vary benefit or beneficiary.

179.—(1) The assured may by a declaration vary a contract or declaration previously made so as to restrict, extend, transfer or limit the benefits of the insurance to any one or

more persons of the class of preferred beneficiaries to the exclusion of any or all others of the class or wholly or partly to one or more for life, or any other term, with remainder to any other or others of the class, but the assured shall not except as provided by subsection 7 of section 178 revoke or alter any disposition made under the provisions of this Act in favour of any one or more of the preferred class except in favour of some one or more persons within the preferred class so long as any of the persons of the preferred class in whose favour the contract or declaration is made are living.

(2) Where it is proved to the satisfaction of the executive officers of a friendly society that a preferred beneficiary is leading a criminal or an immoral life, and there is no other person to whom the assured may under the provisions of this Act divert the benefit, the assured may, with the consent of such executive officers, by a declaration, provide that all right, title and interest of such beneficiary is forfeited and annulled; and thereupon such right, title and interest shall be forfeited and annulled accordingly; and the assured may then or thereafter make a new appointment in accordance with the provisions of this Act and the lawful rules of the society.

(3) Where the contract is made by an insurer other than a friendly society, upon petition, and upon the like facts as in subsection 2 mentioned being proved to the satisfaction of the Supreme Court or a Judge thereof the Court or Judge may make an order annulling the benefit and granting such other relief as under the circumstances appears proper. 2 Geo. V. c. 33, s. 179.

180.—(1) Where the assured finds himself unable to continue to meet the premiums he may surrender the contract to the insurer and accept in lieu thereof a paid-up contract for such sum as the premiums paid would represent, payable as the money insured by the original contract, if not surrendered, would have been payable; and the insurer may accept the surrender and issue the paid-up contract notwithstanding any declaration in favour of a preferred beneficiary.

(2) Notwithstanding the designation of a preferred beneficiary the assured may, from time to time, borrow from the insurer or from any other person on the security of the contract such sums as may be necessary and shall be applied to keep it in force, and on such terms and conditions as may be agreed on; and the sums so borrowed, with such interest as may be agreed on, shall be a first lien on the contract and on all moneys payable thereunder.

(3) Nothing in this section shall authorize anything to be done to the prejudice of a beneficiary for value. 2 Geo. V. c. 33, s. 180.

Assured may direct application of bonuses and profits.

181.—(1) Notwithstanding that the insurance money may be payable to preferred beneficiaries or to a trustee for preferred beneficiaries the assured may, in writing, require the insurer to pay the bonuses or profits, or portions thereof, accruing under the contract to the assured, or to apply the same in reduction of the annual premiums payable by him in such way as he may direct or to add such bonuses or profits to the benefit; and the insurer shall pay or apply such bonuses or profits as the assured directs and according to the rates and rules established by the insurer; but the insurer shall not be obliged to pay or apply such bonuses or profits in any manner contrary to the stipulations in the contract or the application therefor.

Surrender of contract.

(2) Where a contract of insurance is made or declared to be for the benefit of one or more preferred beneficiaries and all of them are of full age they and the assured may surrender the contract or may assign the same either absolutely or by way of security.

Power of assured and adults to deal with policy.

(3) Where such preferred beneficiaries include children or grandchildren it shall be sufficient so far as their interests are concerned if all then living are of full age and join in the surrender or assignment.

Who deemed person entitled to benefit of policy.

(4) Where a person is entitled to a benefit only in the event of the death of another person named as a beneficiary it shall be sufficient for the purposes of this section if such last-mentioned person joins in the surrender or assignment. 2 Geo. V. c. 33, s. 181.

Declaration changing beneficiaries not affected by previous trust.

182. A declaration changing the preferred beneficiaries or altering, apportioning or varying the benefits of the insurance may be made notwithstanding that by the contract of insurance or a previous declaration the insurance money is payable to a trustee for preferred beneficiaries. 2 Geo. V. c. 33, s. 182.

3. Additional provisions applicable to Friendly Societies only.

Application of sections 184 to 190.

183. The provisions contained in sections 184 to 190 shall apply only to registered friendly societies. 2 Geo. V. c. 33, s. 183.

Filing and certifying rules.

184.—(1) Upon the incorporation of a society a duplicate or a copy of the rules thereof filed with the Registrar and certified by him shall be filed with the Provincial Registrar.

Officially certified rules.

(2) A copy certified by the Registrar of any revision or amendment of the rules directed or assented to by him shall be filed in the office of the Provincial Registrar.

(3) The rules and any revision or amendment thereof so certified shall, notwithstanding the declaration or other instrument filed under any general or special Act, be deemed to be the rules in force on and after the date of the certificate until a subsequent revision or amendment is in like manner certified and filed, and so from time to time, and shall be binding and obligatory upon all members of the society.

Certified
rules to be
those in
force.

(4) A copy of all rules of a society relating to its insurance contracts and to the management and application of its insurance funds shall be delivered by the society to every person on demand on payment of twenty-five cents.

Rules
deliverable
on demand.

(5) If an officer or agent of a society, with intent to mislead or defraud, gives to any person a copy of rules other than the rules then in force on the pretence that the same are the rules then in force, he shall incur a penalty of not less than \$20 nor more than \$200 recoverable under *The Ontario Summary Convictions Act*, and in the case of a second or any subsequent conviction shall be liable to imprisonment for any term not exceeding six months. 2 Geo. V. c. 33, s. 184.

Fraudulent
delivery.

Rev. Stat. c. 90.

185.—(1) Where by the constitution and rules of a society provision is made for the payment of an ascertained or ascertainable sum to a member of the society in the event of his becoming totally disabled, or of his reaching a stated age, or upon the concurrence of both events, whether such provision is combined with other life insurance or not, such society may with the approval of the Registrar so amend its constitution and rules as to provide for the payment of such sum in equal consecutive annual instalments without interest, the payment of such instalments to be completed within a period not exceeding ten years from the happening of the event.

Substitution
of instal-
ments for
gross pay-
ment.

(2) All such amendments which have heretofore been or which may hereafter be made by any society pursuant to the provisions of the constitution and rules shall be valid and binding upon all its members and upon all their beneficiaries and legal personal representatives and upon every one entitled, notwithstanding anything to the contrary in the instrument of incorporation of the society or the previous provisions of its constitution and rules.

Amendments
of rules to
that intent
validated.

(3) If a member of such society dies after becoming totally disabled or reaching the stated age, but before the payment of all instalments, the instalments unpaid shall form part of the insurance money or benefits payable upon the death of such member.

When
assured dies
before re-
ceiving all
instalments.

(4) No unmatured policy or contract of insurance shall create any claim or liability against the society while a going society, or against the estate of the society in a winding up or liquidation under this Act, but in a winding up or

Unmatured
policies as
liabilities.

liquidation the person assured or beneficiary for value under such unmatured policy or contract shall be entitled to share in the surplus assets of the society. 2 Geo. V. c. 33, s. 185.

Holding meetings of friendly societies in another Province.

186. Notwithstanding anything to the contrary contained in its instrument of incorporation, or in any Act under which it was incorporated, any society, when so authorized by its constitution and rules, may hold its meetings annually or otherwise at any place it may from time to time select in Ontario or in any other Province of Canada in which it has a subordinate lodge or branch. 2 Geo. V. c. 33, s. 186.

Limitation of member's liability in friendly society.

187.—(1) The liabilities of a member under his contract shall at any date be limited to the assessments, fees and dues which became payable within the preceding twelve months and of which at such date notice had been given in accordance with the constitution and rules of the society.

Withdrawal of member.

(2) A member may at any time withdraw from the society by delivering or sending by registered post to the society notice in writing of his intention to withdraw and paying or tendering the assessments, fees and dues mentioned in subsection 1.

Release from liability.

(3) After such withdrawal the member shall become thereby released from all further liability under his contract.

Subject to rules.

(4) This section shall be subject to the provisions of any rules to the contrary assented to by the Registrar and filed with the Provincial Registrar as hereinbefore provided. 2 Geo. V. c. 33, s. 187.

Notice before forfeiture of benefit.

188.—(1) No forfeiture or suspension shall be incurred by reason of any default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed dates, until after notice to the member stating the amount due by him, and that in case of default of payment within a reasonable time, not less than thirty days, to the proper officer, who shall be named in such notice, his interest or benefit will be forfeited or suspended, and default has been made by him in paying his contributions or assessment in accordance with such notice.

"Fixed dates."

(2) "Fixed dates" in subsection 1 shall include any numbered day, or any Monday, Tuesday, or as the case may be, numbered, alternate or recurring, of a stated month or months.

Saving rights to re-instate-ment.

(3) Where under the constitution or rules or by-laws of the society a defaulting member is entitled to be reinstated on payment of arrears, after a stated number of days' default, this section shall not prejudice the rights of such member. 2 Geo. V. c. 33, s. 188.

189.—(1) Where it is stipulated that the benefit of the contract shall be suspended or reduced or forfeited for any other reason than for non-payment of money such condition shall not be valid unless it is held to be just and reasonable under the circumstances of the case. Conditions of forfeiture restricted.

(2) In any contract of which total abstinence from intoxicating liquors is made an express condition, such condition shall be deemed to be just and reasonable. 2 Geo. V. c. 33, s. 189. Condition as to total abstinence.

190. Any notice required to be given to a member for any purpose of this Act or of the rules of the society may be effectually given if written or printed notice is delivered, or is sent by registered post to the member, or is left at his last known place of abode or of business. 2 Geo. V. c. 33, s. 190. How notice may be given to members.

CONTRACTS OF FIRE INSURANCE.

General Provisions.

191.—(1) Every company licensed and registered for the transaction of fire insurance may, within the limits and subject to the restrictions prescribed by the license and registry, insure or reinsure any property in which the assured has an insurable interest against damage or loss by fire, lightning, or explosion, whether the same happens by accident or any other means except that of design on the part of the assured. What rights may be insured against.

(2) A company registered under this Act for the transaction of fire insurance, and insuring any mercantile or manufacturing risk, may either by the same or by a separate contract insure the same risk against loss or damage arising from defects in or injuries to sprinklers or other fire extinguishing appliances. 2 Geo. V. c. 33, s. 191. Loss from defects in or injuries to fire appliances.

192.—(1) Contracts shall not exceed the term of three years; and the insurance of mercantile and manufacturing risks shall, if on the cash system, be for a term not exceeding one year, but contracts of mutual fire insurance by any mutual or cash-mutual fire insurance company incorporated before the first day of June, 1904, may be for any term not exceeding four years. Duration of contracts.

(2) Any contract made for one year or any shorter period on the premium note system, or for three years or any shorter period on the cash system may be renewed at the discretion of the directors by renewal receipt instead of by policy on the assured paying the required premium, or in the case of a contract on the premium note system by giving a new premium note; and any payment by cash or premium note for renewal shall be made at or before the end of the period for Renewing contracts by receipt or by new premium note.

which the policy was granted or renewed, otherwise the policy shall be null and void.

New note by assignee of policy on premium note plan.

(3) In case of an assignment of a policy on the premium note plan a new premium note made by the assignee shall be taken, and the former note, after all arrears are paid, shall be surrendered by the company. 2 Geo. V. c. 33, s. 192.

What to appear on face of fire policy.

193.—(1) On the face of a policy of fire insurance there shall appear the name of the insurer, the name of the assured, the name of the person or persons to whom the insurance money is payable, the premium or other consideration for the insurance, the subject matter of the insurance, the maximum amount or amounts which the insurer contracts to pay, the event on the happening of which payment is to be made and the term of the insurance.

Co-insurance.

(2) A policy may contain a co-insurance clause, but any such policy shall have printed or stamped across its face in large type and in red ink the words, "This policy contains a Co-insurance Clause," and if these words are not so printed or stamped such clause shall not be binding on the assured.

Other terms not binding unless held reasonable.

(3) Any stipulation or term of the contract, other than those above stated, if held by a Court or a Judge before whom a question relating thereto is tried to be not just and reasonable, shall not be binding on the assured. 2 Geo. V. c. 33, s. 193.

Statutory Conditions and Provisions Relating Thereto.

Statutory conditions to be part of every policy unless varied.

194. The conditions set forth in this section shall, as against the insurer, be deemed to be part of every contract in force in Ontario with respect to any property therein or in transit therefrom or thereto, and shall be printed on every policy with the heading *Statutory Conditions*, and no stipulation to the contrary, or providing for any variation, addition or omission, shall be binding on the assured unless evidenced in the manner prescribed by sections 195 and 196. 2 Geo. V. c. 33, s. 194.

Statutory Conditions.

DIVISION I.

Misrepresentation or omission.

1. If any person insures property, and causes the same to be described otherwise than as it really is to the prejudice of the company, or misrepresents or omits to communicate any circumstance which is material to be made known to the company, in order to enable it to judge of the risk it undertakes, such insurance shall be of no force in respect to the property in regard to which the misrepresentation or omission is made.

2. Any change material to the risk, and within the control or knowledge of the assured, shall avoid the policy as to the part affected thereby, unless the change is promptly notified in writing to the company or its local agent; and the company when so notified may return the unearned portion, if any, of the premium which has been paid for the unexpired period and cancel the policy, or may demand in writing an additional premium, which the assured shall, if he desires the continuance of the policy, forthwith pay to the company; and if he neglects to make such payment forthwith after receiving such demand, the policy shall be no longer in force.

When a change as to risk shall avoid a policy. Notice of change, etc.

3. If the property insured is assigned without a written permission indorsed hereon by an agent of the company duly authorized for such purpose, the policy shall thereby become void; but this condition does not apply to change of title by succession or by the operation of the law, or by reason of death.

Change of property.

4. Money, books of account, securities for money, and evidences of debt or title, are not insured.

Money, securities, etc.

5. If the assured now has any other insurance on any property covered by this policy which is not disclosed to the company or hereafter effects any other insurance thereon without the written assent of the company, he shall not be entitled to recover in excess of sixty per cent. of the loss or damage in respect of such property; but if for any fraudulent purpose the assured does not disclose such other insurance to the company this policy shall be void.

Prior or subsequent insurance.

(a) If within two weeks after written notice of such other insurance or of any intended insurance, or after that time and before such other insurance is effected, the company does not dissent by notice in writing to the assured, it shall be deemed to have assented thereto.

6. The company is not liable for the losses following, that is to say:

When company not to be liable.

(a) For the loss of property owned by any other person than the assured, unless the interest of the assured is stated in or upon the policy;

Liability in case of non-ownership.

(b) For loss caused by invasion, insurrection, riot, civil commotion, military or usurped power;

Riot, invasion, etc.

(c) Where the insurance is upon buildings or their contents—for loss caused by the want of good and substantial brick or stone or cement chimneys; or by ashes or embers being deposited, with the knowledge and consent of the assured, in wooden vessels; or by stoves or stovepipes being, to the knowledge of the assured, in an unsafe condition or improperly secured;

Chimneys, ashes, stoves.

Goods to
which fire
heat is being
applied.

(d) For loss or damage to goods destroyed or damaged while undergoing any process in or by which the application of fire heat is necessary;

Repairs by
carpenters,
etc.

(e) For loss or damage occurring to buildings or to their contents while the buildings are being altered or repaired by carpenters, joiners, plasterers or other workmen, and in consequence thereof, unless permission to execute such repairs has been previously granted in writing, signed by a duly authorized agent of the company, but fifteen days are allowed in each year for incidental alterations or repairs, without such permission;

Gunpowder,
coal oil, etc.

(f) For loss or damage occurring while petroleum, or rock, earth or coal-oil, camphene, gasoline, burning fluid, benzine, naphtha or any liquid products thereof, or any of their constituent parts (refined coal oil for lighting purposes only, not exceeding five gallons in quantity, or lubricating oil not being crude petroleum nor oil of less specific gravity than required by law for illuminating purposes, not exceeding five gallons in quantity, excepted), or more than twenty-five pounds weight of gunpowder is or are stored or kept by the assured or to his knowledge by any other person under his control, in the building insured or containing the property insured, unless permission is given in writing by the company.

What constitutes written
notice.

7. Any written notice to the company may be delivered at the head office or chief agency of the company in Ontario, or sent by registered post addressed to the company, its manager or agent, at such head office or chief agency or may be delivered or sent by registered post to an authorized agent of the company.

DIVISION II.

Policy sent
to be deemed
as applied
for unless
variance
pointed out.

8. After application for insurance it shall be deemed that any policy sent to the assured is intended to be in accordance with the terms of the application, unless the company points out in writing the particulars wherein the policy differs from the application.

Apportion-
ment of loss
among
insurers.

9. In the event of there being any other insurance on property herein described at the time of the happening of any loss or damage in respect thereof, then this company shall be liable only for the payment of a rateable proportion of such loss or damage or of such amount as the assured shall be entitled to recover as provided by Condition No. 5.

Explosion.
Lightning.

10. The company will make good loss or damage caused by the explosion of coal or natural gas in a building not forming part of gas works, and loss or damage by fire caused by

any other explosion or loss or damage caused by lightning, whether fire ensues therefrom or not, but if dynamos, exciters, lamps, switches, motors, or other electrical appliances or devices are insured any loss or damage to them caused by lightning on other electrical currents, artificial or natural, is expressly excluded, and the company is liable only for such loss or damage to them as may occur from resultant fire originating outside the machines themselves.

11. The insurance may be terminated by the company by giving seven days' notice to that effect, and, if on the cash plan, by tendering therewith a rateable proportion of the premium paid, for the unexpired term, calculated from the termination of the notice, and the policy shall cease after such notice or notice and tender as the case may be, and the expiration of the seven days. Insurance terminable on notice.

12. The insurance, if on the cash plan, may also be terminated by the assured by giving written notice to that effect to the company or its authorized agent, in which case the company may retain the customary short rate for the time the insurance has been in force, and shall repay to the assured the balance of the premium paid. Termination by assured.

13. No condition of the policy, either in whole or in part, shall be deemed to have been waived by the company, unless the waiver is clearly expressed in writing, signed by an agent of the company. Waiver of condition.

14. Any officer or agent of the company, who assumes on behalf of the company to enter into any written agreement relating to any matter connected with the insurance, shall be deemed *prima facie* to be the agent of the company for the purpose. Officers assuming to agree in writing to be deemed agents.

15. Any written notice to the assured may be by letter delivered to the assured or by registered letter addressed to him at his last post office address notified to the company or where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received. Written notice, how sent.

DIVISION III.

16. Where property insured is only partially damaged, no abandonment of the same will be allowed unless by the consent of the company or its agent; and in case of removal of property to prevent damage thereto, the company will contribute to the loss and expenses attending such act of salvage proportionately to the respective interests of the company or companies and the assured; and that part of this policy in excess of its proportion of any loss and of the value of the property remaining in the original location, shall, for the ensuing seven days only or for the unexpired term of the policy if less than seven days, cover the property so removed. Partial damage—salvage.

in the new location or locations in the proportion that the value in any one such new location bears to the value in all such new locations.

Proof of loss when payable to other than assured.
Directions to be observed on making claim.

17. Subject to condition 19 proof of loss must be made by the assured, although the loss is payable to a third person.

18. Any person entitled to make a claim under this policy shall

- (a) Forthwith after loss give notice in writing to the company;
- (b) Deliver, as soon after as practicable, as particular an account of the loss as the nature of the case permits;
- (c) Furnish therewith a statutory declaration declaring,
 - That the account is just and true;
 - When and how the loss occurred, and if caused by fire how the fire originated, so far as the declarant knows or believes;
 - That the loss did not occur, or if caused by fire, that the fire was not caused through any wilful act or neglect, or the procurement, means or contrivance of the assured;
 - The amount of other insurances;
 - All liens, and incumbrances on the subject of insurance;
 - The place where the property insured, if movable, was deposited at the time of the fire;
- (d) If required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers, verified by a statutory declaration in support of his claim, and furnish copies of the written portion of all policies, separate as far as reasonably may be the damaged from the undamaged property and exhibit for examination all that remains of the property which was covered by the policy. The evidence furnished under this clause shall not be considered proofs of loss within the meaning of condition 22.

Proof of loss may be made by agent.

19. The above proofs of loss may be made by the agent of the assured, in case of the absence or inability of the assured himself to make the same, such absence or inability being satisfactorily accounted for, or in the like case or if the assured refuses to do so, by a person to whom any part of the insurance money is payable.

False statement or fraud vitiates claim.

20. Any fraud or false statement in any statutory declaration, in relation to any of the above particulars, shall vitiate the claim of the person making the declaration.

21. If any difference arises as to the value of the property insured, the property saved, or the amount of the loss, such value and amount and the proportion thereof (if any) to be paid by the company shall, whether the right to recover on the policy is disputed or not, and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the party assured and the other by the company, and a third to be appointed by the persons so chosen, or on their failing to agree, then by a Judge of the County or District Court of the County or District in which the loss has happened; and such reference shall be subject to the provisions of *The Arbitration Act*; and the award shall, if the company is in other respects liable, be conclusive as to the amount of the loss and the proportion to be paid by the company; where the full amount of the claim is awarded the costs shall follow the event; and in other cases all questions of costs shall be in the discretion of the arbitrators.

Arbitration
in case of
differences.

Rev. Stat. c. 65

22. The loss shall be payable in sixty days after the completion of the proofs of loss, unless a shorter period is provided for by the contract of insurance.

Loss, when
payable.

23. The company, instead of making payment, may repair, rebuild or replace, within a reasonable time, the property damaged or lost, giving notice of their intention within fifteen days after receipt of the proofs herein required.

Company
may replace
instead of
paying.

24. Every action or proceeding against the company for the recovery of any claim under or by virtue of this policy, shall be absolutely barred, unless commenced within one year next after the loss or damage occurs. 2 Geo. V. c. 33, s. 194.

Actions to be
brought
within one
year.

195. If the insurer desires to vary the statutory conditions or to omit any of them, or to add any new condition, there shall be added immediately after such conditions words to the following effect, which with any such variation, addition or reference to omissions, shall be printed in conspicuous type and in red ink.

Variations,
how indi-
cated.

VARIATIONS IN CONDITIONS.

"This policy is issued on the above Statutory Conditions with the following variations, omissions and additions, which are, by virtue of *The Ontario Insurance Act*, in force so far only as they shall be held to be just and reasonable to be exacted by the company." 2 Geo. V. c. 33, s. 195.

196. No such variation, omission or addition, unless the same is distinctly indicated and set forth in the manner above prescribed, shall be binding on the assured; but on the contrary, the policy shall, as against the insurer, be subject to the statutory conditions only. 2 Geo. V. c. 33, s. 196.

Variations
not binding
unless
clearly
indicated.

Variations
to be just
and reason-
able.

197. Any such variation, omission or addition, unless held to be just and reasonable, shall be null and void. 2 Geo. V. c. 33, s. 197.

Insurers may
pay claims
void under
statutory
conditions.

198. It shall be optional with the insurer to pay or allow claims, wholly or in part, which are void under any statutory condition. 2 Geo. V. c. 33, s. 198.

Where fail-
ure to make
proof is
caused by
accident,
etc.

199. Where, by reason of necessity, accident or mistake, any condition of a policy of insurance on property in Ontario as to the proof to be given to the insurer after the occurrence of the event insured against has not been strictly complied with, or where after a statement or proof of loss has been given in good faith by or on behalf of the assured, in pursuance of any condition of such policy, the insurer through its agent or otherwise objects to the loss upon other grounds than for imperfect compliance with such condition or does not within a reasonable time after receiving such statement or proof notify the assured in writing that it is objected to, stating the particulars in which the same is alleged to be defective, and so from time to time, or where for any other reason it is held to be inequitable that the insurance should be deemed void or forfeited by reason of imperfect compliance with such condition no objection to the sufficiency of such statement or proof or amended or supplemental statement or proof, as the case may be, shall be allowed as a defence by the insurer or a discharge of his liability on such policy wherever entered into. 2 Geo. V. c. 33, s. 199.

Insurer's
right of
entry after
loss.

200.—(1) After any loss or damage to insured property the insurer by a duly accredited agent shall have an immediate right of entry and access sufficient to enable him to survey and examine the property and to make an estimate of the loss or damage, but the insurer shall not be entitled to the disposition, control, occupation, or possession of the insured property, or of the remains or salvage thereof, unless the insurer undertakes reinstatement or accepts abandonment of the property.

Duty of
assured
after loss.

(2) After any loss or damage to insured property it shall be the duty of the assured when and as soon as it is practicable to secure the insured property from damage, or from further damage, and to separate as far as reasonably may be the damaged from the undamaged property, and to notify the insurer when such separation has been made, and thereupon the insurer shall be entitled to entry and access sufficient to enable him to make an appraisalment or particular estimate of the loss or damage.

Proceedings
in lieu of
arbitration.

(3) The insurer and the assured instead of proceeding by arbitration under statutory condition 21 may at any time after the loss or damage make a joint survey, examination, estimate or appraisalment of the loss or damage, in which

case the insurer shall be deemed to have waived all right to make a separate survey, examination, estimate or appraisal thereof. 2 Geo. V. c. 33, s. 200.

201. Where proofs of loss are made by any person other than the assured the insurer shall be entitled to have the ^{Examination of assured for discovery.} assured examined under oath touching the loss or damage before the Judge of the County or District Court of the County or District in which the assured resides, and the procedure shall be the same as that upon an examination for discovery in an action. 2 Geo. V. c. 33, s. 201.

(With regard to investigation of fires see *The Coroners Act, R.S.O. c. 92.*)

DUTIES OF THE SUPERINTENDENT.

202.—(1) The Superintendent shall personally or by ^{Duties of Superintendent.} deputy visit the head office or chief agency in Ontario of every company licensed under this Act, at least once in every year, and shall carefully examine the condition and affairs of the company. 2 Geo. V. c. 33, s. 202 (1); 3-4 Geo. V. c. 35, s. 13 (1).

(2) Instead of visiting the head office or chief agency the Superintendent may require the company to produce and ^{Inspection of books and papers.} thereupon the company shall produce its books and papers at the county or district town of the county or district in which the head office or chief agency is located, or at such other convenient place as the Superintendent directs.

(3) The officers of the company who have custody of the ^{Expenses of officers.} books shall be entitled to be paid by the company for the actual expenses of such attendance.

(4) The Superintendent shall from such inspection pre- ^{Annual report.} pare and lay before the Minister an annual report of the condition of every company's business as ascertained from such inspection, and such report shall be printed and published forthwith after the completion thereof.

(5) Officers of the company shall cause their books to be ^{Powers of Superintendent.} open for the examination of the Superintendent, and shall facilitate the examination so far as may be in their power; and the Superintendent may examine under oath any officer or agent of the company as to its business.

(6) Where a special examination has been made a special ^{Report of Superintendent.} written report stating the Superintendent's opinion of the condition and financial standing of the company, and all other matters which it is desirable should be made known shall be made to the Minister. 2 Geo. V. c. 33, s. 202 (2-6).

(7) Every director, manager, officer, agent, collector, ^{Entries, untrue or omitted.} auditor or employee of a company who knowingly makes or

Access to
books and
papers.

assists in making any untrue entry in any of the company's books, or who does not make any proper entry therein, or does not exhibit or allow the same to be inspected and extracts to be taken therefrom shall be guilty of an offence, and punishable in the manner provided by section 96. 2 Geo. V. c. 33, s. 202 (7); 3-4 Geo. V. c. 35, s. 13 (2).

Provision if
company
appears
unsafe.

203.—(1) If at any time it appears to the Superintendent that the assets of a company are insufficient to justify its continuance in business, or that it is unsafe for the public to effect insurance with the company, he shall make a special report on its affairs to the Minister.

Suspending
license of
company.

(2) If after consideration of the report and such notice to the company as the Minister deems reasonable, and such further inquiry, if any, as he may deem proper, the Minister reports to the Lieutenant-Governor in Council that he agrees with the report of the Superintendent, the Lieutenant-Governor in Council may suspend or cancel the license of the company, and in case of suspension it shall not be lawful for the company thereafter to transact any business in Ontario until the suspension is removed by the Lieutenant-Governor in Council.

Notice of
suspension
of license.

(3) Notice of the suspension or cancellation of the license shall be published in the *Ontario Gazette*; and thereafter any person transacting any business on behalf of the company, except for winding up its affairs under this Act, shall be deemed to have contravened section 98. 2 Geo. V. c. 33, s. 203.

Examination
of company's
affairs.

204. The Superintendent with the approval of the Minister may cause abstracts to be prepared of the books and vouchers of a company and a valuation to be made of its assets and liabilities; and the cost thereof upon the certificate of the Superintendent approved by the Minister shall be paid by the company. 2 Geo. V. c. 33, s. 204.

VOLUNTARY LIQUIDATION.

Provincial Insurance Companies.

Notice
previous to
liquidation.

205.—(1) Where a Provincial Company other than a Dominion licensee proposes to go into voluntary liquidation, at least one month's notice shall be given to the Minister and to the Superintendent, and shall also be published by the company in two consecutive issues of the *Ontario Gazette* and in one or more newspapers if the Superintendent so requires.

Contents.

(2) The notice shall state the date at which contracts are to cease to be taken by the company, also the name and address of the company's liquidator, or the intention of the

company to apply on a stated day for the appointment of a liquidator.

(3) On the winding up of a Provincial Mutual or Cash-Mutual Fire Insurance Company, after the notice has been given, the directors may, out of the reserve or surplus funds, reinsure the unexpired contracts for which premiums or premium notes have been taken with a company registered under this Act and approved by the Minister. Disposal of reserve at winding up of company.

(4) Where any company is wound up each person contracted with on the cash plan shall be entitled to a refund from the company of the unearned proportion of the cash premium calculated from the date at which the company, according to the notice, ceased to undertake contracts; but this shall not affect any other remedy which such person may have against the company. Unearned premiums.

(5) Every liquidator shall forthwith give such bonds or securities for his fidelity as may be required of a receiver under section 214; and in case of dispute the Master upon motion of any creditor or person interested, or of the Superintendent, shall determine the kind and amount of such bonds or securities. Security by liquidators.

(6) The bonds or securities shall be made and deposited as provided by subsection 7 of section 214. Deposit of security.

(7) Every such liquidator, until the affairs of the company are wound up and the accounts are finally closed, shall within seven days after the close of each month file with the Court or other authority appointing him, and also with the Superintendent, detailed schedules showing, in such forms as may be prescribed, receipts and expenditures, assets and liabilities, and he shall, whenever so required by the authority appointing him or by the Superintendent exhibit the company's books and vouchers, and furnish such other information respecting the company's affairs as may be required; and any receiver, liquidator or assignee who does not furnish such information shall for each offence incur a penalty of not less than \$50 and not more than \$200, and shall also be liable to be removed. 2 Geo. V. c. 33, s. 205. Monthly statements by liquidator.

Friendly Societies, or the Insurance Funds thereof.

206.—(1) A registered Provincial friendly society or any insurance fund thereof, may be voluntarily wound up after resolution (hereinafter called the winding-up resolution) passed at a general meeting, ordinary or special, after at least one month's notice of such intended resolution. Resolution for winding up.

(2) The resolution when assented to by the Registrar and filed with the Provincial Registrar as provided by subsection 2 of section 184 shall be binding on all the members of the society. When binding.

Transfer to
another
corporation.

(3) The resolution may provide for the transfer of the liabilities and assets of the society or of the fund to some other corporation.

When
liquidator
to be
appointed.

(4) Where there are assets to be realized, distributed, disposed of or dealt with the winding-up resolution shall appoint a liquidator, and shall fix the amount of the security to be given by him, which shall be sufficient for the purposes of the liquidation, and shall state the amount and form of his compensation.

Committee
of inspection.

(5) Unless otherwise provided in the winding-up resolution the then executive officers, other than such one of them, if any, who is appointed liquidator, shall act as a committee of inspection and shall audit the liquidator's accounts at least once a month until his accounts are closed, and shall certify their audit.*

Documents
to be filed
with Registrar.

(6) Preliminary to any winding-up or transfer under this section there shall be filed with the Registrar a statement made by one or more of the executive officers declaring upon oath the facts and circumstances of the case, and there shall be annexed to the statement a true copy of the winding-up resolution and also a financial statement showing in such form as shall be required by the Registrar the liabilities and assets of the society or of the fund, and such other information shall be furnished from time to time as the Registrar may require.

Liquidator's
bonds and
accounts.

(7) The provisions of subsections 5, 6 and 7 of section 205 shall apply to a liquidator under this section.

Resolution
for distribution
of endowment
fund.

(8) Where endowment or expectancy insurance is transacted and there exists an endowment fund separate and distinct from the life insurance fund then, by a resolution duly passed at a general meeting, ordinary or special, after at least one month's notice of such intended resolution, the society may determine that the endowment or expectancy insurance shall be discontinued, and that the endowment or expectancy fund shall be distributed *pro rata* among the members then in good standing who are contributors to such fund according to the total contribution of each member.

Distribution
of fund,
effect of.

(9) After the resolution has been assented to and filed as provided in subsection 2 the executive officers may proceed to ascertain the persons entitled to rank upon the fund, and may distribute the fund among those so entitled; and such distribution shall discharge the society and all executive officers thereof from all further or other liability in respect of such fund and of the endowment or expectancy contracts undertaken by the society.

Conversion
into life
insurance
fund.

(10) If all the members interested in the endowment or expectancy fund are also interested as holders of life insurance contracts the general meeting instead of determining

that the endowment or expectancy fund shall be distributed may determine that such fund shall be converted into or merged in a life insurance fund; and after the resolution has been assented to and filed as provided in subsection 2 the endowment or expectancy fund shall become and be a life insurance fund.

(11) After the passing of the resolution mentioned in subsections 8 or 10 the society shall not undertake or transact any endowment or expectancy insurance. 2 Geo. V. c. 33, s. 206.

No endowment insurance to be transacted thereafter.

General Provisions as to Voluntary Liquidation.

207.—(1) In any winding-up, transfer or dissolution under the next preceding two sections, if any doubt, difficulty or dispute arises as to any matter the Superintendent, the Registrar, the liquidator, any member of the committee of inspection, or any person interested may apply to the Master who shall finally dispose of the matter.

Master to finally dispose of doubts, difficulties or disputes.

(2) The Master may on the application of any such person remove the liquidator and appoint another liquidator, or do any other matter or thing which the Court, Judge, or Master might do in a winding-up under sections 211 to 231, or may by order remove into his office the winding-up, transfer or dissolution which shall thereafter proceed as if begun under those sections. 2 Geo. V. c. 33, s. 207.

Powers of Master on application.

208. The duration of any winding-up under any of the three next preceding sections shall not be prolonged beyond one year from its commencement except for special and urgent cause shown to the satisfaction of the Minister. 2 Geo. V. c. 33, s. 208.

Duration of winding-up.

209. For the purpose of any application or other proceeding under any of the four next preceding sections, it shall be sufficient to entitle the proceeding in the matter of this Act and of the insurance corporation or fund concerned; and at least two clear days' notice shall be given unless otherwise directed by the Master. 2 Geo. V. c. 33, s. 209.

How proceedings may be entitled.

210. Notwithstanding anything in this Act the Superintendent may by writing under his hand and seal of office, renew or extend the registry of any Provincial Insurance Corporation for the purpose of its winding up; and during the continuance of such registry or renewed or extended registry, sections 211 to 231 shall not apply to the corporation; but upon the expiry without renewal or upon the revocation or cancellation of such registry those sections shall apply unless the winding-up of the corporation has previously been completed. 2 Geo. V. c. 33, s. 210.

Renewing or continuing registry for winding up purposes.

COMPULSORY LIQUIDATION.

Application
of sections
212 to 231.

211.—(1) Sections 212 to 231 shall apply to Provincial insurance corporations other than those being wound up under the six next preceding sections, and other than licensees of the Dominion of Canada within the meaning of section 69.

"Corporation,"
restriction of
meaning of.

(2) Where the corporation is not constituted exclusively or chiefly for insurance purposes, and the insurance branch and fund are completely severable from every other branch and fund of the corporation, the word "corporation" for the purposes of sections 212 to 231 shall mean only the insurance branch of the corporation. 2 Geo. V. c. 33, s. 211.

Commence-
ment of
winding up.

212.—(1) The winding-up shall be deemed to commence at the beginning of the day on which the registry of the corporation expired or was cancelled, and where the corporation is constituted for the transaction of insurance exclusively its corporate powers shall thereupon cease and determine except for the sole purpose of winding up its affairs.

Effect of
winding up.

(2) After the date of the commencement of the winding up any transfer of shares unless made by authority of the Supreme Court, and any alteration in the status of members or shareholders of the corporation shall be void; and no action or other proceeding against the corporation shall be commenced or proceeded with except by leave of the Court; and every attachment, sequestration, distress or execution put in force against the property of the corporation shall be void.

Cesser of
contracts
of employ-
ment.

(3) All contracts of employment entered into by the corporation shall *ipso facto* cease and determine at the commencement of the winding up.

No marshal-
ling of
assets, nor
preference
of creditors
except as
enacted.

(4) All the funds, assets and property of the corporation or of any liquidating branch or lodge thereof shall be deemed general assets of the corporation, branch or lodge, respectively, for the payment of all debts thereof, and shall not be applied to the payment of any particular debts, preferentially or exclusively, except as otherwise herein expressly provided. 2 Geo. V. c. 33, s. 212.

Events in
which
liquidator
or officer of
corporation
becomes
interim
receiver.

213.—(1) Upon notice given by the Superintendent of the corporation's registry being cancelled under subsection 1 of section 87, or where a corporation neglects to register or renew its registry, the liquidator in voluntary winding-up proceedings, if any, and if there is no liquidator the officer or officers of the corporation in Ontario having in charge, custody, possession or power the accounts, account books and insurance funds of the corporation shall *ipso facto*, become interim receiver or receivers, as the case may be, of the corporation, and officers of the Supreme Court subject to its control and direction, and shall so remain unless and until further order is made by the Court.

(2) If the treasurer or other officer does not become interim receiver he shall forthwith pay and deliver to the interim receiver all accounts, account books and insurance funds of the corporation in his charge, custody, possession or power.

Where treasurer not interim receiver.

(3) Every interim receiver shall forthwith deposit in a chartered bank in Ontario to the credit of the corporation all money and securities for money in the charge, custody, possession or power of the corporation or of himself as officer thereof, and shall from time to time so deposit all further money and securities that come into his possession or power as interim receiver unless and until otherwise ordered by the Court or a Judge, and the same shall not be withdrawn from the bank without leave of the Court or a Judge.

Receiver to deposit money in bank.

(4) The interim receiver, or person depositing the same, shall obtain from the bank a receipt in triplicate for the money and securities so deposited and one of the triplicates shall be forthwith filed by him in the office of the Superintendent.

Bank's receipt for same.

(5) Notice from the Superintendent to any person that the registry of the insurance corporation has expired or has been cancelled, or that the corporation has become unregistered, shall be sufficient notice that the funds and securities of the corporation are subject solely to the order of the Supreme Court. 2 Geo. V. c. 33, s. 213.

Notice that the assets are a fund in Court.

214.—(1) After the deposit of the money and securities in the bank, the interim receiver or receivers shall forthwith file an application, Form 1, in the office of the Master.

Application by interim receiver for discharge.

(2) With the application there shall be filed one of the triplicate receipts given by the bank, and an affidavit, Form 2, in which all the receivers, if there are more than one, shall join.

Material to be filed with the application.

(3) Until an interim receiver is discharged from his office, or until new security is taken from him by order of the Court, any security given by him to the corporation and in force at the cesser of registry shall continue in as full force and validity as if the corporation had continued to be registered.

Securities previously given by receiver to remain in force.

(4) On the filing of the documents mentioned in this section the Master shall issue to the interim receiver his certificate of the filing, and shall issue his order requiring any person having in his charge, custody, possession or power the security mentioned in the next preceding subsection to deliver the same forthwith to the Master for approval, and on any refusal, neglect or delay to obey the order such person shall be liable to be committed for contempt of Court.

Calling in security.

Non-delivery punishable as a contempt.

Where no securities exist, or the securities are not satisfactory or sufficient.

(5) If there is no such security, or if the existing security is not in the opinion of the Master satisfactory or sufficient, the Master shall order the interim receiver within a time limited to give security or other or additional security, and if the interim receiver makes default the Master may remove him and appoint another interim receiver.

Guarantee company's bond.

(6) The Master may accept as security the bond of a guarantee company registered under this Act.

Bonds, etc., of receiver to be made to Superintendent.

(7) The security of every receiver under this Act shall be made to the Superintendent in his name of office, and all securities when approved by the Master shall be deposited with the Superintendent.

Enforcement of securities.

(8) All securities to which this section applies, whether made to him or not, may be enforced by the Superintendent for the time being in his name of office. 2 Geo. V. c. 33, s. 214.

Order of court staying proceedings.

215. On the application of the Superintendent or of any creditor or contributory upon proof to the satisfaction of the Court that all proceedings in relation to the winding up ought to be stayed the Court may at any time make an order staying the same either altogether or for a limited time on such terms and subject to such conditions as it may deem proper. 2 Geo. V. c. 33, s. 215.

Hearing application for discharge.

216.—(1) The Master shall appoint a place and a time not less than twenty-one days from the date of the appointment to hear the application of the interim receiver for his confirmation or discharge, and upon hearing the application, may appoint the interim receiver as receiver or may discharge him from his office and may appoint another as receiver, or make such other disposition of the matter as he may deem proper.

Public notice of application and of the hearing.

(2) Notice of the application, Form 3, shall be published by the interim receiver in two issues of the *Ontario Gazette*, and once a week for two weeks in a newspaper published in the county or district in which the head office or chief office of the corporation is located, and a copy of the notice shall be delivered to the Superintendent at least ten days before the day appointed for the hearing of the application.

Disposal of application by Master.

(3) At the place and time appointed the Master may appoint the interim receiver as receiver or may discharge him and appoint another person to be receiver, or with the consent in writing of the Superintendent may then or afterwards dispense with a receiver and generally make such order and give such directions as will best expedite the beneficial realization of the assets, the discharge of the liabilities, and the distribution of the surplus among the persons entitled.

(4) Where a receiver is dispensed with, the assets shall be realized and distributed by or under the direction of the Master among the persons entitled thereto in the same way, as nearly as may be, as if the distribution were being made by the receiver.

Distribution of assets where receiver dispensed with.

(5) A Judge of the Supreme Court may direct how the books, accounts and documents of the corporation and of the receiver are to be dealt with or disposed of.

Disposal of accounts, documents, etc.

(6) There shall not be more than one receiver at any one time except with the consent in writing of the Superintendent.

Not to be more than one receiver.

(7) The Master may appoint as receiver any trust company approved by the Lieutenant-Governor in Council as one which may be appointed receiver under this Act or which has been heretofore so approved. 2 Geo. V. c. 33, s. 216.

Trust company as receiver.

217.—(1) If the interim receiver fails to comply with the provisions of section 213 within eight days after becoming interim receiver the Master may on the application of the Superintendent or of any policy or certificate holder or of any claimant or creditor, supported by an affidavit stating the facts, remove the interim receiver and appoint a new interim receiver, and may make such further order as he may deem necessary for securing the property of the corporation.

On default of interim receiver Master may appoint another.

(2) An interim receiver appointed by the Master shall under his direction take immediate possession of the money and securities for money of the corporation, and shall thereafter perform all the duties required of an interim receiver, and on default of performance shall be liable to the penalties imposed by this Act.

Duties of new interim receiver.

(3) On non-compliance by an interim receiver or by any officer, agent or employee of the corporation with any provision of sections 213 or 214 or with any order made, or summons or direction issued by the Master under this Act, upon motion made as provided in subsection 1, the Master may issue his certificate of the default, and his certificate shall be conclusive evidence of such default for the purposes of any proceedings taken by any of such persons under sections 213 or 214, or under subsection 5 of this section.

Proceedings on default of compliance.

(4) A motion to commit such defaulter may on two clear days' notice be made before a Judge of the Supreme Court in Chambers.

Motion to commit.

(5) If any person made interim receiver by this Act or by order hereunder receives from the Superintendent notice under his hand and the seal of his office directing such person to comply with the provisions of section 213 or of section 214, and the person so notified does not within ten

Penalty for non-compliance with sections 213 and 214 after notice.

Rev. Stat. c. 90.

days after the notice delivered comply accordingly such person shall incur a penalty of not less than \$100 and not more than \$500, recoverable under *The Ontario Summary Convictions Act*; and, in case of a second or any subsequent conviction, he shall be imprisoned for a term not less than three months and not more than twelve months.

Powers of the Master.

(6) Subject to the provisions hereinafter contained the Master shall

- (a) Decide upon the security to be given by the receiver, and upon the mode and amount of his compensation;
- (b) Fix the times for the submission and passing of his accounts;
- (c) Settle advertisements;
- (d) Determine what persons are entitled to notice of any matter or proceeding, and the time, mode and form of notice to be given;
- (e) Settle and determine lists of the debtors and the contributories and the amounts which they are respectively liable to pay and contribute to the assets;
- (f) Settle and determine the claims of creditors and the amounts to which they are respectively entitled, and all matters of set-off affecting or alleged to affect such debts, contributions or claims;
- (g) Direct the realization of assets, the discharge of liabilities and the distribution of the surplus; and
- (h) Make such orders and give such directions as will best give effect to the provisions of this Act; and generally shall have all the powers which might be exercised on a reference to him under a judgment or order of the Supreme Court.

Appeal from

MA.

MA.

S.C. c.

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in orders and certifi-
cates of the Master made in a winding-up under *The Wind-
ing-up Act* of Canada, and so far as not inconsistent with
the provisions of this Act the Rules of the Supreme Court
shall apply to all proceedings under this Act.

Duration of
winding up.

- (8) The duration of the winding up shall not be prolonged beyond one year from its commencement unless the Super-
intendent, for special and urgent cause shown to his satis-
faction consents in writing to an extension to a day named
in his consent.

Laches of
receiver

- (9) Where the creditors are subjected to delay or the
cost to expense by any want of care, diligence or efficiency

on the part of the receiver the Master, on motion of the Superintendent or of any creditor, contributory or other person interested in the estate, may impose a fine on the receiver of not less than \$20 nor more than \$200 and costs which shall be a debt due from the receiver to the estate, and execution may issue forthwith or the amount may be charged against any remuneration already earned by but not yet paid to the receiver.

(10) The receiver shall as far as practicable act personally, under the direction of the Master, in all matters relating to the estate; he shall attend to the correspondence, give notices, file and copy documents, prepare schedules, make calls on persons found or adjudged subject thereto, and perform such other duties and services as may from time to time be proper and necessary.

Receiver to act personally as far as practicable.

(11) No costs shall be paid or allowed for the performance of duties or services which properly devolve upon the receiver personally either within the meaning of this Act or by virtue of any law or practice relating to receivers in force in Ontario. 2 Geo. V. c. 33, s. 217.

Costs not to be allowed for personal service of receiver.

218.—(1) Every receiver shall be subject to the summary jurisdiction of the Court in the same manner and to the same extent as the ordinary officers of the Court; and the performance of his duties may be compelled by order of the Court.

Receiver subject to summary jurisdiction of court.

(2) All remedies sought or demanded for enforcing any claim for a debt, privilege, mortgage, lien or right of property upon, in or to any effects or property in the hands, possession or custody of a receiver may be obtained by an order of the Court on summary petition, and not by action suit, attachment, seizure or other proceeding of any kind.

Remedies against estate obtained by summary order.

(3) In the discretion of the Court a receiver may be removed, and with or without his removal the Court may order the amount of any damage, loss or costs, ascertained to have been occasioned to the estate by his misconduct, misfeasance, laches or neglect to be deducted from his remuneration earned or to be paid by him. 2 Geo. V. c. 33, s. 218.

Removal of receiver.

219.—(1) The advertisement for or notice to creditors or claimants shall be according to Form 4.

Advertisement for creditors.

(2) Upon the evidence mentioned in subsection 4 of section 84, and without the creditor or claimant filing further or other proof or making any formal claim or giving notice, the receiver shall prepare the three schedules next herein-after mentioned with the amount for which or having relation to which each creditor or claimant appears entitled to rank on the assets, and upon such amount being verified to the satisfaction of the Master, and in the absence of contesta-

Certain claims to be collocated without other proof than company's books, etc. Three schedules of claimants to be prepared.

tion by any person interested, the creditor or claimant shall be collocated and ranked accordingly.

Schedule of
preferred
creditors.

(3) The first of the schedules shall be the Schedule of Preferred Creditors and shall include the names, addresses and descriptions of the persons mentioned in section 231 and the total amount to which, on the evidence mentioned in subsection 2, particular reference being made to the book and page or as the case may be, such persons are severally entitled, and the amount for which they are severally entitled to rank as preferred creditors.

Schedule of
ordinary
creditors.

(4) The second of the schedules shall be the "Schedule of Ordinary Creditors," and the schedule shall include those preferred creditors who, in respect of an unpreferred residue, are entitled to rank as ordinary creditors and the amount in each case of such residue; also all creditors entitled to claim under policies matured before the commencement of the winding-up or having at that date a fixed surrender value, or unmatured at the commencement of the winding up but secured by deposit under this Act, together with the following particulars in the case of each policy, viz.: The number and description of the policy, the date of issue (and in the case of life insurance policies the age of the assured at the date of issue), the name and address of the assured, and of his assignee, if any, the amount for which the policy was issued and the value of the policy or of the unearned premiums, as the case may be, taken as at the commencement of the winding up, and in the case of policies issued for a term of years the date of the expiry of the term.

(a) In the case of annuities on lives or of unmatured policies of life insurance so secured, including endowment and tontine insurance, such annuity or unmatured policy issued by a corporation licensed under section 62 shall if valid and subsisting at the commencement of the winding up, be entitled to rank for the value ascertained according to the rules mentioned in Schedule C;

(b) In the case of all other unmatured policies the policy if valid and subsisting at the commencement of the winding up shall be entitled to rank for the unearned premium if any.

Who to be
paid distributive
share on annuity
or unmatured
policy.

(5) On the distribution of the assets the distributive sum payable in respect of any such annuity or unmatured policy shall be paid respectively to the annuitant or to the policyholder, or the beneficiary for value, if any, or to their respective assigns.

Other particulars
to be included
in schedule.

(6) The second schedule shall also include particulars of the obligations other than policies issued by the corporation and outstanding at the commencement of the winding up,

with the names of the obligees and payees, and the value of such obligations taken as at that date, and shall also include the names and addresses, so far as known, of all other persons entitled to rank upon the assets not being persons and claims falling within the scope of the first and third schedules.

(7) The third schedule shall be a Schedule of Unmatured and Unsecured Policies, and shall include all policies in force at the commencement of the winding up, but not falling within the scope of the second schedule, and shall include the like particulars as therein mentioned, except as to the value of the policy, and shall further show the aggregate of the contributions made by the assured to the reserve or surplus fund, if any, of the corporation; and in any distribution of any surplus assets the share under any policy shall be proportionate to such aggregate of contributions by the assured, with or without interest thereon, as the Master under the circumstances may deem to be just.

Schedule of the unmatured and unsecured policies.

(8) Where the registry of the corporation has been cancelled for insolvency or impending insolvency, or where the Master is of the opinion that the assets of the estate are insufficient or not more than sufficient to pay in full the claims entitled to rank in the first and second schedules the Master may dispense with the preparation of the third schedule.

When third schedule may be dispensed with.

(9) As soon as practicable after the commencement of the winding up the receiver shall prepare a "Schedule of Debtors" and a "Schedule of Contributories."

Schedules of debtors and contributories.

(10) The "Schedule of Debtors" shall show the names and addresses, so far as the addresses can be ascertained, of all persons actually indebted to the estate or against whom the estate holds obligations or accounts accruing due with particulars of the same, and of the securities if any held by the estate, reference being in every case made to the books or vouchers relating thereto, and such schedule shall be *prima facie* evidence of the indebtedness of any person whose name appears therein.

What schedule of debtors to show.

(11) The "Schedule of Contributories" shall show the names and addresses, so far as the addresses can be ascertained, of all members and shareholders and all persons who are subject to call, or otherwise liable to contribute to the assets, and the extent of such liability, giving the like reference to books and vouchers.

What schedule of contributories to show.

(12) The schedules mentioned in this section shall be prepared by the receiver in triplicate; one of the triplicates verified by his oath shall be filed in the Master's office, another shall be delivered to the Superintendent, and the third shall be kept in the receiver's office and shall be accessible on demand to all persons interested in the estate. 2 Geo. V. c. 33, s. 219.

Schedules to be in triplicate: how disposed of.

Procedure
after expiry
of the time
limited for
claims.

220.—(1) After the expiration of the time limited by the advertisement for creditors or by the notice to claimants the Master shall settle and determine

- (a) The list of creditors and the claims of alleged creditors, and the amounts to which those persons by him adjudged to be creditors are respectively entitled;
- (b) The list of debtors and contributories and the amounts they are severally liable to pay or contribute to the assets; and
- (c) All matters of set-off affecting or alleged to affect such claims against, or debts or contributions to the estate.

Interim
report
notice.

(2) The Master may disallow all claims of which notice was not given within the time limited; and thereafter shall report directing a distribution of the assets among the persons entitled thereto, having regard only to the claims of which the receiver had notice within the time limited.

Special
leave to
prove claim

(3) The Master may give special leave to prove a claim of which notice has not been given upon such terms as to costs and otherwise as the Master directs.

Interim
report

(4) The Master may make an interim report whenever deemed advisable; and when deemed necessary may direct the payment of an interim dividend.

Interim
dividend,
when to be
paid.

(5) It shall not be necessary to procure an order for the payment of any dividend declared by the Master's report or interim report after such report becomes absolute by lapse of time, or is confirmed or is affirmed, or affirmed with a variation, on final appeal, as the case may be, but the receiver may pay such dividend upon the production of a certified copy of the report and a certificate of the Master certifying the date of its filing and that the report has become absolute by lapse of time or is confirmed or has been affirmed, and if affirmed with a variation how varied on final appeal as the case may be. 2 Geo. V. c. 33, s. 220.

Inquiry into

221. Where in a winding-up or liquidation under this Act the liability of the corporation is admitted, but the person to whom the corporation is liable is in dispute or uncertain, or where in the opinion of the Superintendent no sufficient discharge for the liability can be had the amount of the liability or of the dividends payable in respect thereof shall be paid into court under the provisions of *The Trustee Act* 2 Geo. V. c. 33, s. 221.

Filing
Master's
report.

222.—(1) Where a report is made as to debtors or contributories the Master shall deliver it to the receiver who shall forthwith file the same in the Master's office.

(2) Notice of the filing of the report and of the date of filing shall forthwith be given by the receiver by publication in the *Ontario Gazette* and in a newspaper published at or nearest the place where the head office of the corporation is located and in two daily newspapers published in the City of Toronto.

(3) The receiver shall also forthwith deliver or transmit a copy of the report to the Superintendent having indorsed thereon notice of the date of filing, and shall also keep in his own office a copy of the report indorsed with the date of filing which shall be accessible on demand to all persons interested in the estate.

(4) At the expiration of fourteen days from the receipt of such indorsed copy of the report by the Superintendent the report shall become absolute unless notice of appeal is served within that time, and every person ascertained by the report to be indebted shall *ipso facto* and without further proceedings and as after final judgment be deemed to be a debtor to the corporation in the sum specified in the report, and thereafter the Master may under his hand certify that by his report dated and filed in on the day of , 19 (*supplying the necessary particulars*) the person named in the certificate has been found indebted to the corporation (*naming it*) in the sum of \$ with \$ interest (*if any*) and \$ costs (*if any*).

(5) A fee of 25 cents shall be payable to a Local Master in respect of each certificate together with 10 cents for each additional five names after the first.

(6) The receiver or the Superintendent may thereupon by *præcipe* or requisition directed to the clerk of any Division Court or County or District Court which would have jurisdiction in an action for the recovery of a claim of the amount specified in the certificate, or to the proper officer of the Supreme Court, require the certificate to be entered as a judgment of the Court, and thereupon it shall be entered accordingly, and thereafter the receiver or the Superintendent may take any proceedings or cause to be issued any process for the enforcing of the judgment that could be had or taken for the like purpose upon any judgment of such Court.

(7) Where the certificate includes the names of more than one person residing in the same bailiwick or division, it may be entered as a judgment against all of them and only one writ of execution shall issue commanding the sheriff or bailiff to execute the writ against the goods and lands of each of the persons named therein in respect of the sum of money, damages or costs specified as payable by him; and thereupon the sheriff or bailiff shall execute the writ as he would if separate writs for the sum of money, damages or costs had been issued against each of such persons. 2 Geo. V. c. 33, s. 222.

Officer or
liquidator
misapplying
funds of
corporation.

223. Where in the course of the voluntary or compulsory winding up a corporation it appears that any past or present trustee, auditor, director, manager, officer, official, receiver or liquidator of the corporation has misapplied or retained in his own hands or become liable or accountable for any money, assets, or property of the corporation, or has been guilty of any misfeasance or breach of trust or duty in relation to the corporation, or that his conduct in the management of the affairs of the corporation has been such as to require investigation the Master, on the application of the Superintendent or the Registrar or of the receiver or of any creditor or contributory, and after at least ten days' notice served on the person whose conduct or dealings are to be investigated, may examine into the conduct and dealings of such person and may direct him to repay any money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the Master thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust as the Master thinks fit, and may disallow his account, if any, for services or salary. 2 Geo. V. c. 33, s. 223.

R.S.C. c.
144, s. 123.

Books, etc.,
of receiver
to be acces-
sible to
Insurance
Registrar.

224. The books, financial statements, schedules, accounts and vouchers of every receiver shall be accessible to the Superintendent and the Registrar and to any person authorized under the hand and seal of either of them; and if any receiver refuses or neglects to afford such access, or if he makes a wilfully false statement or untrue entry he shall be guilty of an offence, and upon summary conviction thereof shall be liable to imprisonment for a period not exceeding twelve months. 2 Geo. V. c. 33, s. 224.

Receiver to
deposit
moneys in
Bank.

225. Unless and until otherwise ordered by the Court the receiver shall forthwith deposit at interest in a chartered bank in Ontario to the credit of the corporation all money by him from time to time received whenever the same amounts to \$100. 2 Geo. V. c. 33, s. 225.

Default of
receiver in
leaving or
passing
accounts,
etc.

226. In case of default by any receiver or liquidator in leaving or passing any account, or in making any deposit or payment, or of laches or negligence in performing any other duty devolving upon him by virtue of his office, or of an order or direction of the Court, the Master either without motion or on motion by the Superintendent or any person interested may disallow any salary or compensation to the receiver or may charge him with interest upon his balances, or may remove him and appoint another, or make such other order as will best carry into effect the purposes of this Act. 2 Geo. V. c. 33, s. 226.

Insurance
Superinten-
dent a party

227. Where a corporation is being wound up every action, matter or proceeding relative to the estate of the corpora-

tion, or to a receiver or liquidator thereof, or to the sureties of or securities given by either, shall be brought and prosecuted by or in the name of the Superintendent by his name of office, and the Superintendent shall be a necessary party to every such action, matter or proceeding against the corporation or affecting the estate and to every taxation, retaxation, review or revision of costs affecting the estate. 2 Geo. V. c. 33, s. 227.

228. Vacations in the Supreme Court shall not apply to proceedings under sections 205 to 231. 2 Geo. V. c. 33, s. 228.

High Court
vacations
not to apply
to proceed-
ings under
sections
205-231.

Costs.

229.—(1) Except with the consent in writing of the Superintendent no counsel or solicitor shall be employed to act for the receiver or others at the expense of the corporation.

Employment
of counsel
or solicitor
by receiver.

(2) A minute entered in the Master's book shall have the same force as a formal order or direction; and except in special cases no costs shall be allowed for attending on or taking out a formal order or direction.

Minute on
Master's
book to have
force of
formal order
or direction.

(3) A copy of any minute certified under the hand of the Master shall be *prima facie* evidence thereof, and for every such certificate a fee of 50 cents shall be payable.

Copy of
minute as
evidence.

(4) Consolidated Rule 678 or any rule substituted therefor shall apply to any bill of costs payable wholly or in part out of the estate.

Revision of
taxed costs.

(5) The costs of any matter or proceeding in the Master's office under this Act shall be on the County Court scale.

Scale of costs.

(6) The taxed costs of any action, matter or proceeding by the Superintendent or by the receiver with the written consent of the Superintendent shall be paid out of the funds or estate of the corporation; and except with such consent, no costs shall be allowed out of the estate for separate or other representation of members or certificate holders of the corporation or for the representation of any class of members or certificate holders, and the costs of all other actions, matters, or proceedings shall be in the discretion of the Court.

Costs of
proceedings
in winding
up.

(7) All costs, charges and expenses properly incurred in the receivership and winding up of the corporation, including the remuneration of the receiver, shall be payable out of the assets of the corporation in priority to all other claims. 2 Geo. V. c. 33, s. 229.

Priority of
certain costs.

230.—(1) Every account to be passed or bill of costs to be taxed, payment of which is to be made out of the estate, shall be rendered in duplicate to the receiver and the receiver shall deliver or transmit one duplicate to the Superintendent

Accounts,
bills of costs.

at least ten days before the day appointed for the passing of the account or taxation of the bill of costs.

Evidence of

with subs. 1
before pass-
ing or taxa-
tion.

(2) The passing of the account or taxation of the bill of costs shall not be proceeded with until proof has been furnished by the production of the receipt of the Superintendent or otherwise to the officer before whom the account is to be passed or the bill of costs is to be taxed that the provisions of subsection 1 have been complied with. 2 Geo. V. c. 33, s. 230.

PRIORITY OF CLAIMS FOR WAGES.

clerks and
wage earners
how far
preferred
creditors.

231. Subject to the provisions of subsection 7 of section 229, the Master in distributing the assets of the corporation shall direct payment in priority to the claims of the ordinary or general creditors of the salary or wages of all clerks and wage-earners in the employment of the corporation due at the date when the corporation became unregistered or within one month before, not exceeding three months' salary or wages, and such persons shall be entitled to rank as ordinary or general creditors for the residue of their claims. 2 Geo. V. c. 33, s. 231.

PURCHASE OF ASSETS BY OFFICERS AND OTHERS.

Purchase of
assets by
officers, etc.,
prohibited.

232. Any purchase of assets of an unregistered or liquidating corporation, or of any member's right to rank on the assets, or of a member's dividend by any person directing, managing, auditing, or employed by the corporation within three years next before receivership or liquidation, or any such purchase by any receiver, or liquidator, or by an inspector is prohibited, and any such pretended purchase or assignment shall be void. 2 Geo. V. c. 33, s. 232.

PART II.

PROVISIONS RELATING TO LIVE STOCK INSURANCE CONTRACTS.

Meetings to
establish
companies,
how called.

233. (1) Ten owners of live stock in any municipality or association of municipalities may call a meeting of the owners of live stock to consult whether it is expedient to establish therein a live stock insurance company upon the mutual plan.

Organization
—application
of several
provisions.

(2) The mode of calling such meeting and the proceedings for the formation of the company shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance company except that the determination that it is expedient to establish the company shall be by thirty residents of the municipality being owners of live stock in Ontario and that the meeting for the organization of the company shall not be held unless and until fifty owners of live stock

in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the company which in the aggregate shall amount to \$50,000 at least. 2 Geo. V. c. 33, s. 233.

234. The company may within the limits prescribed by the license insure against loss of live stock by fire, lightning, accident, disease or any other means, except that of design on the part of the assured or by the invasion of an enemy or by insurrection. 2 Geo. V. c. 33, s. 234.

235. The following provisions of this Act relating to fire insurance contracts shall apply to live stock insurance contracts,—

(a) The provisions as to the form and contents of the policy;

(b) The provisions as to the conditions including the statutory conditions numbered 1, 3, 5, 6 (a), (b), 7, 8, 13, 14, 15, 16, 17, 18 (a), (b), (c), 19, 20, 21, 22 and 24;

(c) Subsection 3 of section 192.

The following additional condition shall form part of every live stock insurance contract:

The insurance may be terminated by the company by giving seven days' notice to that effect. 2 Geo. V. c. 33 s. 235.

236.—(1) Contracts of insurance shall not in any case exceed the term of two years. 2 Geo. V. c. 33, s. 236 (1).

(2) A contract made for one year or any shorter period may be renewed from time to time at the discretion of the directors by renewal receipt instead of by policy, on the assured paying the required premium or giving his premium note; and all payments for renewal by cash or premium notes shall be made at or before the end of the period for which the policy was granted or renewed, otherwise the policy shall be void. 2 Geo. V. c. 33, s. 236 (2); 3-4 Geo. V. c. 35, s. 14.

(3) No premium note taken under any contract of insurance shall exceed forty per centum or be less than ten per centum per annum of the sum insured, and no renewal receipt shall extend the contract beyond two years from the date of the policy. 2 Geo. V. c. 33, s. 236 (3).

PART III.

PROVISIONS RELATING TO WEATHER INSURANCE CONTRACTS.

Interpreta-
tion.

"Agricultural
Property."

"Weather
Insurance."

Meeting to
establish.

Organization.

Application
of certain
provisions as
to fire insur-
ance.

237.—(1) In this Part,

(a) "Agricultural Property" shall include dwelling-houses, stables, barns, sheds and outbuildings, and their contents, waggons, carriages, and other vehicles; saddles and harness; agricultural engines, implements, tools, instruments, appliances and machinery; household goods, wearing apparel, provisions, musical instruments, and libraries; live stock; growing crops, and crops severed from the land; fruit and ornamental trees, shrubs and plants; and live or standing timber, being upon farms as farm property, and owned by members of the company in which the property is insured;

(b) "Weather Insurance" shall mean and include the insurance of any kind of agricultural property against loss or injury arising from such atmospheric disturbances, discharges or conditions as the contract of insurance shall specify. 2 Geo. V. c. 33, s. 237.

238. (1) Ten owners of agricultural property in any municipality or association of municipalities may call a meeting of the owners of agricultural property to consult whether it is expedient to establish therein a weather insurance company upon the mutual plan.

(2) The mode of calling such meeting and the proceedings for the formation of the company shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance company except that the determination that it is expedient to establish the company shall be by thirty residents of the municipality being owners of agricultural property in Ontario, and that the meeting for the organization of the company shall not be held unless and until fifty owners of agricultural property in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the company which in the aggregate shall amount to \$50,000 at least. 2 Geo. V. c. 33, s. 238.

239. (1) The following provisions of this Act relating to fire insurance contracts shall apply to weather insurance contracts:—

(a) The provisions as to the form and contents of the policy;

(b) The provisions as to conditions including the statutory conditions numbered 1, 3, 5, 6 (a), (b), 7, 8, 13, 14, 15, 16, 17, 18 (a), (b), (c), 19, 20, 21, 22 and 24;

(c) Subsection 3 of section 192.

(2) The following additional conditions shall form part of every weather insurance contract: Additional conditions.

(i) The insurance may be terminated by the company by giving seven days' notice to that effect. Termination.

(ii) The company is not liable for loss or damage occurring to buildings or structures or to their respective contents where the buildings or structures have been weakened by subsequent alterations unless permission to make such alterations has been previously granted in writing signed by a duly authorized agent of the company. Where buildings or structures have been weakened by alterations made without consent. 2 Geo. V. c. 33, s. 239.

240. A contract of weather insurance shall not in any case exceed the term of three years. Duration of contract. 2 Geo. V. c. 33, s. 240.

241. On every premium note taken by the company there shall be payable at the commencement of each year of insurance a fixed sum amounting to at least one-fifth of one per centum of the sum insured: and the premium note shall, as to the balance thereof, be subject to assessment by the directors. Fixed payments on premium note. Assessment of the balance. 2 Geo. V. c. 33, s. 241.

PART IV.

GENERAL PROVISIONS.

242.—(1) Until otherwise prescribed by the Lieutenant-Governor in Council the fees for Letters Patent of Incorporation under this Act shall be as mentioned in Schedule D. Fees, on incorporation.

(2) Until otherwise prescribed by the Lieutenant-Governor in Council the fees set out in Schedules E to II shall be payable in respect of the matters therein mentioned. Other fees.

(3) The fees prescribed in Schedules D to II shall be payable to the Department of Insurance. To be paid to department.

(4) When the fee for any term of license or registry under Schedules D to H exceeds \$10 the fee for a certificate covering a period of six months or under shall be one-half of the fee payable for the full term. When term of license or registry not more than one month. 2 Geo. V. c. 33, s. 242.

243. The fees payable upon an application or in respect of any document or instrument to be filed, examined or deposited shall be paid before the application is considered or the document or instrument is filed, examined or deposited; and in the case of registry or certificates of registry the fees shall be payable before the corporation is registered. To be paid before steps taken. 2 Geo. V. c. 33, s. 243.

Regulations.

244.—(1) The Lieutenant-Governor in Council may make regulations for

- (a) Extending the provisions of this Act or any of them to any system of insurance not particularly mentioned herein;
- (b) Generally for the better administration of the Department and the carrying out of the provisions of this Act.

Regulations
to be laid
before
Assembly.

(2) Every Order in Council made under this section shall be laid before the Assembly forthwith if the Assembly is then in session and if not then in session then within fifteen days after the opening of the next Session. 2 Geo. V. c. 33, s. 244.

Application
of certain
sections
of the
Ontario
Companies
Act.
Rev. Stat.
c. 178.

245. Except where the provisions of this Act are inconsistent with them, sections 49, 51, 54 to 62, 72 to 77, 95 (1) and 98 of *The Ontario Companies Act* shall apply substituting for the words "Provincial Secretary" wherever they occur the word "Superintendent." 2 Geo. V. c. 33, s. 246.

SCHEDULE A.

[Section 73 (2) (g).]

Age at entry.	Net level Premium for all-life insurance of \$1,000.			
	Yearly, in advance.	Half-yearly, in advance.	Quarterly, in advance.	Monthly, in advance.
	\$	\$	\$	\$
18	9.86	5.00	2.51	.84
19	10.20	5.18	2.60	.87
20	10.55	5.36	2.69	.90
21	10.91	5.53	2.78	.93
22	11.28	5.71	2.87	.96
23	11.66	5.89	2.96	.99
24	12.03	6.07	3.05	1.02
25	12.42	6.25	3.14	1.05
26	12.76	6.43	3.23	1.08
27	13.12	6.60	3.32	1.11
28	13.49	6.78	3.41	1.14
29	13.87	7.02	3.53	1.18
30	14.31	7.20	3.62	1.21
31	14.76	7.44	3.74	1.25
32	15.22	7.68	3.86	1.29
33	15.73	7.91	3.98	1.33
34	16.25	8.21	4.13	1.38
35	16.82	8.51	4.28	1.43
36	17.42	8.81	4.43	1.48
37	18.05	9.10	4.57	1.53
38	18.71	9.46	4.75	1.59
39	19.42	9.82	4.93	1.65
40	20.18	10.17	5.11	1.71
41	20.97	10.59	5.32	1.78
42	21.81	11.01	5.53	1.85
43	22.70	11.48	5.77	1.93
44	23.65	11.96	6.01	2.01
45	24.66	12.44	6.25	2.09
46	25.72	12.97	6.52	2.18
47	27.31	13.80	6.94	2.32
48	28.10	14.16	7.12	2.38
49	29.36	14.82	7.45	2.49
50	30.72	15.53	7.80	2.61
51	32.17	16.24	8.16	2.73
52	33.71	17.02	8.55	2.86
53	35.34	17.85	8.97	3.00
54	37.07	18.74	9.42	3.15
55	38.94	19.64	9.87	3.30

SCHEDULE B.

FORMS.

(Section 214 (1).)

FORM 1.

INTERIM RECEIVER'S APPLICATION FOR CONFIRMATION OR DISCHARGE.

In the Supreme Court of Ontario,

In the matter of *The Ontario Insurance Act*.

And in the matter of (name of corporation), an unregistered insurance corporation.

I, C.D., by virtue of *The Ontario Insurance Act*, (or of an order made under *The Ontario Insurance Act* as the case may be), interim receiver for the above named corporation, do on the grounds set forth in the annexed affidavit apply to the Court for my confirmation in the office of receiver (or for my discharge from the office of receiver, according as the interim receiver applies to be confirmed or discharged), and for an appointment of a day on which my application will be considered.

Dated at this day of , 19 . C. D.

FORM 2.

(Section 214 (2).)

AFFIDAVIT OF INTERIM RECEIVER.

In the Supreme Court of Ontario,

In the matter of *The Ontario Insurance Act*.

And in the matter of (name of the corporation) an unregistered insurance corporation and the application of C.D., interim receiver, dated the day of , 19 .

I, C.D., by virtue of *The Ontario Insurance Act*, interim receiver for the (naming the corporation), make oath and say as follows:

1. The (naming the corporation) ceased to be registered under *The Ontario Insurance Act*, on the day of , 19 , and thereupon by virtue of the said Act I became interim receiver for the said corporation.

2. When the said corporation so ceased to be registered, I held therein the office of treasurer (or as the case may be) and as such officer I had in my custody, possession or power the funds (or if a corporation having funds separate and distinct from the funds of the insurance branch, then say insurance funds) of the corporation.

3. All the money and securities for money in my custody, possession or power when the said corporation ceased to be registered or subsequently and up to the time of making deposit in the bank as required by the said Act, are fully and truly set out in Schedule A. to this my affidavit; and the said deposit thereof is correctly vouched for by the bank's receipts hereto annexed.

4. The other assets of the said corporation, including money or securities for money which have come into my charge, custody,

possession or power since the time of making the said deposit are fully and truly set out in Schedule B. to this my affidavit.

5. As treasurer (or other officer as the case may be) of the said corporation, I gave securities for the faithful performance of my duties to the corporation as follows:

Here specify the securities given; if bonds, give names and addresses of the sureties and the sums in which they are severally bound.

6. The said securities are still in force and are now in the custody, possession or power of (here give the name and address of the custodian or bailee).

[Where the interim receiver was appointed by order the above paragraphs may be varied to suit the circumstances.]

7. I have filed herewith an application in the Master's office, praying the court to confirm me in my office as receiver (or to discharge me from my office as receiver, as the case may be), and the following are the material facts in support of the said application (here state shortly the material facts).

Sworn at
this day of , 19 . } (Signature.)
before me, etc.

FORM 3.

(Section 216 (2).)

In the Supreme Court of Ontario,

In the matter of *The Ontario Insurance Act*.

And in the matter of the (naming the corporation) an unregistered insurance corporation.

TAKE NOTICE that C.D., interim receiver of the said corporation, has filed in the Master's office an application to be confirmed in his office (or to be discharged from his office) as receiver, and that the Master has appointed (place, day and hour). for the hearing of the said application, at which place and time the Master will make such disposition of the matter as may appear proper.

Dated at the
day of , 19 .

C.D..
Interim Receiver.

FORM 4.

(Section 219 (1).)

ADVERTISEMENT FOR CREDITORS.

Ontario Insurance Act.

In the Supreme Court of Ontario,

In the matter of *The Ontario Insurance Act*.

And in the matter of the (naming the corporation), an unregistered insurance corporation.

Pursuant to the judgment and direction of the Superintendent of Insurance herein, dated the _____ day of _____, 19____, cancelling the registration of the above named corporation (or as the case may be).

The creditors and persons (other than holders of unmatured policies or certificates of the corporation) having claims against the corporation are, on or before the _____ day of _____, 19____, to deliver or send by post, prepaid, to _____, of _____, the Receiver of the corporation, an affidavit showing their Christian names and surnames, addresses and descriptions, the full particulars of their claims, a statement of their accounts and the nature of the security, if any, held by them; or, in default thereof, they will be peremptorily excluded from the benefit of such judgment and direction, and from all share in the assets of the estate; and the said creditors and claimants, if so required by notice in writing from the said Receiver, are to come in and prove their debts and claims and produce their securities, if any, before me at my chambers at _____, on the _____ day of _____, 19____, at _____ o'clock in the _____ noon, being the time appointed for hearing and adjudicating upon debts and claims, or, in default thereof, they will be excluded from the benefit of any distribution of assets.

The status and rights of persons interested under unmatured policies of the corporation will, in the absence of contestation and without any claim made, be determined by the books and records of the corporation or of its officers; a schedule showing the said status and rights may be seen in the office of the Receiver at the above address.

Notices and letters respecting the estate or any alleged right or interest therein, are to be addressed to the Receiver as above, and all letters requiring answer are to enclose a stamped and addressed envelope for reply.

Dated this _____ day of _____, 19____.

Master.

2 Geo. V. c. 33, Sched. B.

SCHEDULE C.

(Sections 107 and 219 (4) (a).)

RULE FOR VALUING AN ANNUITY.

(1) An annuity required or entitled to be valued under *The Ontario Insurance Act* shall (irrespective of the state of the health of the annuitant or nominee) be valued according to the table known as the Hm Table of the Institute of Actuaries of Great Britain, interest being reckoned at the rate of four per centum per annum and the age of the life being taken as at the nearest birthday.

RULE FOR VALUING A POLICY OR CONTRACT OF LIFE INSURANCE.

(2) The value of a policy or contract of life insurance required or entitled to be valued under *The Ontario Insurance Act* is (irrespective of the state of health of the assured or policyholder) the difference between the present value of the reversion in the sum insured (including any bonus or addition thereto made before the commencement of the winding up), and the present value of the future net annual premiums.

(3) Such present value shall be computed according to both the tables and the rate of interest mentioned in subsection 5 of section 166 of *The Ontario Insurance Act*.

(4) The premium to be calculated is such net or pure premium as according to the said tables, and said rate of interest is sufficient to provide for the risk incurred by the insurer in issuing the policy or contract exclusive of any loading or addition for office expenses and other charges.

(5) The present value of the reversion at any age is the net single premium that, according to the said tables and said rate of interest, is equivalent to the present value of the net annual premium payable at that age and so long thereafter as required by the policy or contract.

2 Geo. V. c. 33, Sched. C.

SCHEDULE D.

(Section 242.)

Incorporation of Joint Stock Companies where the proposed capital stock is:

(a) \$1,000,000 or upwards	\$250 00
(b) \$500,000 or upwards but less than \$1,000,000...	200 00
(c) \$300,000 or upwards but less than \$500,000.....	150 00
(d) Supplementary Letters Patent	50 00

Unless the capital stock of the company is thereby increased, in which case the fee shall be payable upon the amount of the increase under the above scale (a), (b), (c), the minimum fee being \$150.

2 Geo. V. c. 33, Sched. D.

SCHEDULE E.

(Section 242.)

Insurance Companies Licensed by the Province.

1. For examining and passing upon applications or documents under sections 9, 21, 27, 51, 61.....	\$10 00
2. For filing power of attorney under section 81.....	5 00
3. Application for change of name or of head office....	10 00
4. For initial license to do business:—	
Joint Stock Company	100 00
Mutual	25 00
5. For each annual renewal of license:—	
Joint Stock Company	50 00
Cash Mutual Company	25 00
Mutual	5 00
6. For each supplementary license:—	
Initial	20 00
Renewal	10 00
7. Fee on Petition for Order-in-Council under Sections 51, 52 or 61	25 00
8. For filing annual statements:—	
Cash Mutual Company	5 00
Joint Stock Company	5 00

2 Geo. V. c. 33, Sched. E.; 3-4 Geo. V. c. 35, s. 15.

SCHEDULE F.

(Section 242)

FRIENDLY SOCIETIES.

1. In the case of Ontario corporations registered or applying for registry as the Friendly Society Register, the fees shall be as follows:—

Subdivision A.

Corporations or incorporated branches having in Ontario 500 members or less:—

(a) Application for initial registry	\$2 00
(b) Extension of time for making application or delivering documents	1 00
(c) Certificate of registry, original or renewed.....	3 00
(d) Interim Certificates or extension of certificates.....	2 00
(e) Revivor of registry after suspension	2 00
(f) Change of name or of head office	4 00

Subdivision B.

Corporations or incorporated branches having in Ontario over 500 and not more than 1,500 members:—

(a) Application for initial registry	\$3 00
(b) Extension of time for making application or delivering documents	2 00
(c) Certificate of registry, original or renewed.....	10 00
(d) Interim certificate, or extension of certificate	3 00
(e) Revivor of registry after suspension	6 00
(f) Change of name or of head office	6 00

Subdivision C.

Corporations or incorporated branches having in Ontario over 1,500 and not more than 2,500 members:—

(a) Application for initial registry	\$4 00
(b) Extension of time for making application or delivering documents	2 00
(c) Certificate of registry, original or renewed	25 00
(d) Interim certificate, or extension of certificate	4 00
(e) Revivor of registry after suspension	8 00
(f) Change of name or of head office.....	8 00

Subdivision D.

Corporations or incorporated branches having in Ontario over 2,500 members:—

(a) Application for initial registry	\$5 00
(b) Extension of time for making application or delivering documents	2 00
(c) Certificate of registry, original or renewed.....	25 00
(d) Interim certificate or extension of certificate	5 00
(e) Revivor of registry after suspension	10 00
(f) Change of name or of head office	10 00

In the case of extra-provincial friendly societies the fees in respect of powers of attorney shall be \$5, and in other respects the fees shall be as in Subdivision D of this Schedule.

SCHEDULE G.

(Section 242.)

Corporations deriving their powers from an Act of Canada:—

(a) Application for initial registry	5 00
(b) Extension of time for making application or delivering documents	2 00
(c) Filing power of attorney in case of extra-provincial corporations	5 00
(d) Filing change of power of attorney	5 00
(e) Certificate of registry, original or renewed	150 00
(f) Interim certificate of registry, or extension of certificate	5 00
(g) Revivor of registry after suspension	25 00

2. In the case of corporations licensed under *The Insurance Act (1910)* of Canada to transact life insurance upon the assessment plan the fees shall be as follows:—

(a) Application for initial registry	\$5 00
(b) Extension of time for making application or delivering documents	2 00
(c) Filing power of attorney in case of extra-provincial corporations	5 00
(d) Filing change of power of attorney	5 00
(e) Certificate of registry, original or renewed	100 00
(f) Interim certificate of registry, or extension of certificate	5 00
(g) Revivor of registry after suspension	20 00

3. In the case of corporations mentioned in clauses (b), (d) and (e) of section 72, the fees shall be as in Subdivision A. of Schedule "F."

4. In the case of corporations mentioned in clause (c) of section 72, the fees shall be as follows:—

(a) Application for initial registry	\$2 00
(b) Extension of time for making application or delivering documents	1 00
(c) Filing power of attorney in case of extra-provincial corporations	2 00
(d) Filing change of power of attorney	2 00
(e) Certificate of registry, original or renewed	3 00
(f) Interim certificate of registry, or extension of certificate	2 00
(g) Revivor of registry after suspension	3 00

2 Geo. V. c. 33, Sched. G.

SCHEDULE H.

(Section 242.)

MISCELLANEOUS.

Office copy of decision of Superintendent.....	\$1 00
Certified copy of certificate of registry	1 00
Certified copy of entry on register	50
Copies of or extracts from documents filed with or issued by the Superintendent, per folio of 100 words	10
Also certificate of Superintendent	1 00
Certificate of exemption from registry	1 00
Filing of certificate of incorporation or any other separate document required by this Act to be filed in the office of the Provincial Registrar	1 00
For examining and passing upon applications of companies to have their suretyship bonds authorized by any of the Acts respecting the acceptance of certain corpora- tions as sureties	10 00
Order-in-Council authorizing such bonds	100 00
Consent under section 169 (7)	5 00
Fee for certificate of registry, original or renewed, in the case of corporations, companies, insurers or under- writers transacting inland or ocean marine insurance, also discontinuing corporations, and companies in- vesting surplus funds	10 00

2 Geo. V. c. 33, Sched. H.

CHAPTER 184.

An Act respecting Loan and Trust Corporations.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Loan and Trust Corporations Act*. 2 Geo. V. c. 34, s. 1. Short title.

2. In this Act,

1. "Chief Agency" shall mean the principal office or place of business in Ontario of a corporation which has its head office out of Ontario; Interpretation.
"Chief agency."
2. "Corporation" shall include a loan corporation, a loaning land corporation and a trust company; "Corporation."
3. "Due application" shall include such furnishing of information, evidence and material as shall be required by the Registrar; the payment of the prescribed fees in respect of any application, certificate or document required or issued under this Act; and also the payment to the Treasurer of Ontario of all taxes due and payable by the applicant company under any Act of Ontario; "Due application."
4. "Extra-Provincial Corporation" shall mean a corporation other than one incorporated under the law of Ontario; "Extra-provincial corporation."
5. "Head Office" shall mean the place where the chief executive officers of the corporation transact its business; "Head office."
6. "Law of Ontario" shall include any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario; "Law of Ontario."
7. "Loan Corporation" shall include every incorporated company, association or society, not being a chartered bank of Canada or an insurance corporation, constituted, authorized or operated for the purpose of lending money, or for that and any other purpose, but shall not include a loaning land corporation or a trust company; "Loan corporation."

- "Loaning Land Corporation." 8. "Loaning Land Corporation" shall mean a loan company whose powers include the business of buying and selling land;
- "Minister." 9. "Minister" shall mean the member of the Executive Council under whose direction this Act is administered;
- "Paid in." 10. "Paid in," as applied to the capital stock of a corporation or to any shares thereof shall mean the amount paid to the corporation on its shares, not including the premium if any paid on such shares, whether such shares are or are not fully paid up;
- "Paid up." 11. "Paid up," when applied to any share, shall mean a share on which there remains no liability, actual or contingent, to the issuing corporation;
- "Permanent stock."
"Permanent shares." 12. "Permanent Stock," or "Permanent Shares," shall include all stock or all shares of permanent or fixed capital not liable to be withdrawn from or repaid by the corporation;
- "Provincial corporation." 13. "Provincial Corporation" shall mean a corporation incorporated under the law of Ontario, and operated under the Act or instrument by virtue of which the corporation became so incorporated;
- "Real estate." 14. "Real Estate" shall include messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein;
- "Registered corporation." 15. "Registered Corporation" shall mean a Corporation registered under this Act;
- "Trust Company." 16. "Trust Company" shall mean a company constituted or operated for the purpose of acting as trustee, agent, executor, administrator, receiver, liquidator, assignee, guardian of a minor's estate, or committee of a lunatic's estate. 2 Geo. V. c. 34, s. 2.

INCORPORATION OF LOAN OR LOANING LAND CORPORATION.

Application for.

17. (1) An application for the incorporation of a loan corporation or of a loaning land corporation shall be made by petition to the Lieutenant Governor in Council through the Minister in the prescribed form, and shall be delivered to the Registrar.

Notice of application.

(2) The applicants shall for one month next before filing their application with the Registrar publish a notice thereof in the *Ontario Gazette*, and shall also before such filing give

the like notice at least once in a newspaper published in the locality in which the head office is to be established.

(3) The notice shall state the proposed corporate name, Contents. the location of the head office, which shall be in Ontario, the purposes of the corporation, and for what amount of permanent capital stock authorization will be asked, with the number of shares and the par value of the share.

(4) The applicants shall furnish such further information Further information. as may be required by the Minister or the Registrar.

(5) The application shall be accompanied by the original, Application to be accompanied by a declaration. or one of the duplicate originals, of a declaration adopted at a general meeting of the promoters, and executed under their respective hands and seals by at least twenty-five persons present at the meeting who are subscribers for shares.

(6) The declaration shall set out the names in full and the Its contents. address and calling of each of the declarants and shall declare: that the said declarants assembled at on *(naming the place and time)*; being chairman, and being secretary of the meeting *(naming them)* did there and then agree to constitute themselves a provisional corporation by the name of *(mentioning the proposed corporate name)* under *The Loan and Trust Corporations Act*, and under the proposed by-laws there and then adopted, and annexed to the declaration; also that the following persons, five in number *(naming them)* were elected provisional directors.

(7) The Minister may refer the application or any question arising thereunder to the Registrar for a report, and the Registrar shall report thereon. 2 Geo. V. c. 34, s. 3. Reference to Registrar and his report.

4.—(1) Three copies of the proposed by-laws shall accompany the declaration, one copy duly certified being annexed thereto. By-laws to accompany declaration.

(2) Subject to this Act the by-laws shall make provision What they shall provide for. for the following matters:—

- (a) The proposed corporate name, and the location of the head office of the corporation;
- (b) The purposes for which the corporation is to be constituted;
- (c) They shall declare that the capital stock of the company consists exclusively of permanent capital stock divided into a stated number of shares each of a stated uniform amount; and shall also declare what respective amounts of such capital stock are before the commencement of business to be authorized, subscribed, and paid in; with the proviso that no shares shall be issued at a

discount, or upon any terms, agreement or understanding that the taker or holder shall be liable for any less amount than the par value of the shares, less the calls paid thereon;

(d) They shall ~~define~~ and regulate the exercise of such general powers of borrowing as are by this Act conferred upon loan corporations and loaning land corporations, and shall declare within what limits such borrowing powers are to be exercised, and whether by issuing debentures or debenture stock or otherwise;

(e) They shall provide for the holding of general meetings, ordinary and special, of the shareholders; shall prescribe the time and place of the ordinary general meetings, of which one at least shall be held in each year, and the notice to be given of ordinary general meetings, and the notice to be given of special general meetings;

(f) They shall provide for the election of directors, prescribe their number, powers, duties, and term of office, and the number necessary to constitute a quorum;

(See also as to term of office, etc., s. 83, et seq.)

(g) They shall prescribe the securities, and the minimum amount thereof, to be taken for the fidelity of the person or persons having custody or control of the funds of the corporation;

(h) They shall provide for the proper audit, at least yearly, of the books and accounts of the corporation by two or more competent accountants, who shall not be otherwise employed by the corporation or be otherwise officers thereof;

(i) They shall require that there be delivered to each shareholder before the annual meeting a financial statement, verified by the auditors, showing fully and truly the income and expenditure, including the expenses of management, of the corporation for the period audited, and the liabilities and assets of the corporation as at the date of the statement;

(j) They shall provide for their amendment by the shareholders in general meeting, after at least thirty days' notice in writing of the particular amendment or amendments proposed has been given to each shareholder and to the Registrar.

5. A sworn copy of the stock subscription shall also be filed with the Registrar containing such particulars as he may require. 2 Geo. V. c. 34, s. 5. Stock sub-
scription.

6. On receiving an application for incorporation or registry if the Minister finds in the by-laws of the applicant anything repugnant to this Act or to the law of Ontario he may direct an amendment of the by-laws; and, upon their being amended as directed and returned certified as having been so amended, the application may be proceeded with. 2 Geo. V. c. 34, s. 6. Minister may
direct
amendment
of by-laws.

7.—(1) For purposes of incorporation the applicants shall prove to the satisfaction of the Registrar that at least \$300,000 of stock has been subscribed for and taken up *bona fide* by responsible subscribers, each of the applicants holding at least ten shares in his own right and to his own use, that in the case of trust companies at least \$100,000, and in other cases at least \$30,000, of such subscribed stock has been paid by the subscribers into a branch or agency in Ontario of some chartered bank of Canada in trust for the proposed corporation, and that each subscriber has out of his own money contributed to the amount so paid in rateably according to the number of shares subscribed for by him. Prerequisites
to incorpora-
tion.

See Order in Council of 28th October, 1907.

(2) Where the corporation is not to be a trust company and is to be constituted for the purpose of acquiring the assets of one or more existing corporations and the proposed consideration for the transfer of such assets is to consist wholly or in part of shares of the capital stock of the new corporation, the Lieutenant-Governor in Council may dispense to such extent as he may deem proper with the requirements of subsection 1 as to subscription and payment. 2 Geo. V. c. 34, s. 7. New
corporation
acquiring
assets of
existing
corporation.

8. Subject as hereinafter provided the par value of a share of capital stock shall not be less than \$50 nor more than \$100. 2 Geo. V. c. 34, s. 8. Par value
of share.

9.—(1) All stock and shares in corporations hereafter incorporated shall be fixed, permanent and non-withdrawable. All stock
to be
permanent.

(2) A corporation which had not on or prior to the seventeenth day of March, 1900, issued terminating stock or shares shall not make or issue such stock or shares. Unless issued
prior to 17th
March, 1900.

(3) A corporation not registered on the first day of July, 1900, shall not be granted registry if the stock or shares of the corporation consist of or include terminating stock or shares. 2 Geo. V. c. 34, s. 9. Corporation
not registered
on 1st July,
1900, not to be
registered if
any part of
its stock is
terminating.

Letters
patent.

10.—(1) A grant of incorporation shall be by Letters Patent.

Contents.

(2) The Letters Patent shall set forth the name under which and the date at which the corporation became incorporated; the location of the head office; the amount of stock authorized; and the business to be undertaken by the corporation, distinguishing between the classes of business mentioned in section 115. 2 Geo. V. c. 34, s. 10.

Application
for letters
patent by
existing
corporation.

11.—(1) A Provincial corporation incorporated for purposes or objects within the scope of this Act, whether under a special or general Act, and being at the time of its application a subsisting and valid corporation, may apply for Letters Patent under this Act; and the Lieutenant-Governor in Council may grant Letters Patent incorporating the shareholders or members of the corporation as a corporation under this Act.

Powers may
be extended
and new
name given.

(2) Where an existing corporation applies for the issue of Letters Patent under the provisions of subsection 1 the Lieutenant-Governor in Council may by Letters Patent extend the powers of the corporation to such other objects within the scope of this Act as the applicant desires, name the first directors of the new corporation, and give to it the name of the old corporation or any other name.

Rights of
creditors
preserved.

(3) All rights of creditors against the property, rights and assets of a corporation re-incorporated under the provisions of this section, and all liens upon its property, rights and assets shall be unimpaired by such re-incorporation, and all debts, contracts, liabilities and duties of the original corporation shall thenceforth attach to the new corporation, and may be enforced against it to the same extent as if such debts, contracts, liabilities and duties had been incurred or contracted by it. 2 Geo. V. c. 34, s. 11.

Period.

12.—(1) Incorporation may be granted without limitation of time, or for any limited term of years not less than ten.

Term to be
specified if
limited.

(2) Where incorporation is granted for a limited term of years the Letters Patent shall specify the first and the last day of the term.

Forfeiture of
charter for
non-user.

(3) If a corporation incorporated under the law of Ontario does not go into actual *bona fide* operation within two years after incorporation, or at any time for two consecutive years does not use its corporate powers for the purposes set forth in the Act or instrument of incorporation, such non-user shall *ipso facto* work a forfeiture of the corporate powers except so far as may be necessary for winding up the corporation.

Onus of
proof of
user.

(4) In any action or proceeding where such non-user is alleged proof of user shall lie upon the corporation.

(5) Where incorporation has been granted for a limited term application may, upon the like notice as is required by section 3, be made on or before the expiry of the term for the renewal or extension of the incorporation, and the incorporation may be renewed or extended by Letters Patent either without limitation of time or for a limited term. 2 Geo. V. c. 34, s. 12.

Renewal of
terminating
charter.

13. Where incorporation is granted the provisional directors named in the declaration of the applicants shall be the first directors of the corporation, and shall continue in office until their successors are duly elected. 2 Geo. V. c. 34, s. 13.

First direc-
tors of the
corporation.

14. The by-laws accompanying the declaration, mentioned in sections 3 and 4, with such amendments thereof as may have been required by the Minister, shall be the first by-laws of the corporation and shall take effect and be in force from the date of the incorporation. 2 Geo. V. c. 34, s. 14.

First by-
laws of cor-
poration.

TRUST COMPANIES.

Incorporation.

15.—(1) Letters Patent of incorporation of a trust company may issue where it is shown to the satisfaction of the Lieutenant-Governor in Council that, in the locality in which the head office of the proposed company is to be situate, there exists a public necessity for a trust company or for an additional trust company.

When letters
patent of
incorpora-
tion may
issue.

(2) At all times at least three-fourths of the shares of a company shall be held by persons who are residents of Ontario, or by companies incorporated under the law of Ontario.

Proportion
of stock
to be held in
Ontario.

(3) If at any time it is shown to the satisfaction of the Lieutenant-Governor in Council that less than three-fourths of the shares of the company are so held the Letters Patent incorporating the company may be revoked under the provisions of section 21.

Forfeiture
where
smaller pro-
portion so
held.

(4) Letters Patent shall not issue unless the Lieutenant-Governor in Council is satisfied that the fitness of the applicants to discharge the duties of a trust company is such as to command the confidence of the public, and that the public convenience and advantage will be promoted by granting to the company the powers applied for. 2 Geo. V. c. 34, s. 15.

Satisfying
Lieutenant-
Governor
of fitness of
applicants.
O.C. 25th
Oct., 1907.

16. The proceedings leading to incorporation shall be as hereinbefore prescribed for the incorporation of loan corporations. 2 Geo. V. c. 34, s. 16.

Procedure
for incor-
poration.

Powers and Liabilities.

Prohibition
against
taking
deposits or
issuing
debentures.

17.—(1) A trust company incorporated under the law of Ontario shall not borrow money by taking deposits or by issuing debentures or debenture stock, and Letters Patent incorporating any such company shall expressly prohibit it from so doing.

(See Order in Council of 28th Oct., 1907.)

Certain un-
dertakings
not to be
deemed
debentures.

(2) Where money is entrusted to the company for the *bona fide* purpose of its being invested by the company as trustee for, or as agent of the person by whom it is entrusted, the guarantee by the company of the repayment of the same or of the payment of the interest thereon at such rate as may be agreed on on fixed days shall not be deemed to be a debenture nor shall the money be deemed to be money borrowed by the company by issuing debentures within the meaning of subsection 1. 2 Geo. V. c. 34, s. 17.

Powers
which may
be conferred
on trust
companies.

18.—(1) Subject to the provisions of the next preceding three sections, and to the law of Ontario, the Letters Patent may authorize the company to exercise any or all of the following powers:

Accept
property on
trust.

(a) To take, receive and hold all estates and property, real and personal, which may be granted, committed, transferred or conveyed to the company with its consent, upon any trust or trusts whatsoever not contrary to law, at any time or times, by any person or persons, body or bodies corporate, or by any Court in Ontario;

Accept
deposits of
property for
safe keeping.

(b) To take and receive as trustee or as bailee, upon such terms and for such remuneration as may be agreed upon, deeds, wills, policies of insurance, bonds, debentures or other valuable papers or securities for money, jewelry, plate or other chattel property of any kind, and to guarantee the safe keeping of the same;

Act as
attorney or
agent.

(c) To act generally as attorney or agent for the transaction of business, the management of estates, the collection of loans, rents, interest, dividends, debts, mortgages, debentures, bonds, bills, notes, coupons and other securities for money;

Issue and
countersign
stock
certificates,
bonds, etc.

(d) To act as agent for the purpose of issuing or countersigning certificates of stock, bonds or other obligations of any association or municipal or other corporation, and to receive, invest and manage any sinking fund therefor on such terms as may be agreed upon;

Manage
sinking
funds.

Act as exe-
cutor, etc.

(e) To accept and execute the offices of executor, administrator, trustee, receiver, liquidator, assignee,

or of trustee for the benefit of creditors under any Act of this Legislature, and of guardian of any minor's estate, or committee of any lunatic's estate; to accept the duty of and act generally in the winding up of estates, partnerships, companies and corporations;

- (f) To invest any trust money in the hands of the company in any securities in which private trustees may by law invest trust money, and also in the debentures of any municipal corporation in the Provinces of Manitoba, Saskatchewan, or Alberta, or in any other province which may be named by the Lieutenant-Governor in Council; Invest trust funds.
- (g) To guarantee any investment made by the company as agent or otherwise; Guarantee investments.
- (h) To sell, pledge or mortgage any mortgage or other security, or any other real or personal property held by the company, and to make and execute all requisite conveyances and assurances in respect thereof; Sell or mortgage property.
- (j) To make, enter into, deliver, accept and receive all deeds, conveyances, assurances, transfers, assignments, grants and contracts necessary to carry out the purposes of the company, and to promote its objects and business; Make deeds, transfers, etc.
- (k) And for all such services, duties and trusts to charge, collect and receive all proper remuneration, legal, usual and customary costs, charges and expenses. Collect costs, charges and expenses for services.

(2) A trust company may invest any money held by it other than trust money, in any of the securities authorized in the case of a loan corporation or loaning land corporation, by section 27. 2 Geo. V. c. 34, s. 18. Investment of its own funds.

19. The liability of a trust company to persons interested in an estate held by the company as executor, administrator, trustee, receiver, liquidator, assignee, guardian, or committee shall be the same as if the estate had been held by any private person in the like capacity, and the company's powers shall be the same. 2 Geo. V. c. 34, s. 19. Liability, extent of.
O.C., 28th Oct., 1907.

20.—(1) Where a trust company is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant-Governor in Council approves of such company being accepted as a trust company for the purposes of the Supreme Court, every Court or Judge having authority to appoint such an officer may, with the consent of the company, appoint such company to exercise any of such offices in respect of any estate Approval of company for the acceptance of the Court in certain fiduciary officers.

Proviso.

or person under the authority of such Court or Judge, or may grant to such company probate of any will in which such company is named as an executor; but no company which has issued or has authority to issue debentures or debenture stock, or which has received or has authority to receive deposits, shall be approved.

Appointment of company as sole

(2) A trust company so approved may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee.

or joint trustee.

(3) A trust company so approved may be appointed to any of the offices mentioned in subsection 1 jointly with another person.

When appointment may be made by court.
Rev. Stat. c. 121.

(4) Such appointment may be made whether the trustee is required under the provisions of any deed, will or document creating a trust or whether the appointment is under the provisions of *The Trustee Act* or otherwise.

Security not required.

(5) Notwithstanding any rule or practice or any provision of any Act requiring security it shall not be necessary for the company to give any security for the due performance of its duty as such executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless otherwise ordered.

Revocation of approval.

(6) The Lieutenant-Governor in Council may at any time revoke the approval given under this section. 2 Geo. V. c. 34, s. 20.

REVOCATION OF CHARTER.

Amendment, suspension or revocation of charter or powers.

21. The charter or powers of a corporation may, at any time, for cause shown to his satisfaction, be amended, suspended or revoked and made void by the Lieutenant-Governor in Council. 2 Geo. V. c. 34, s. 21.

EXTRA PROVINCIAL BUSINESS.

Extension of business beyond the Province.

22.—(1) Where the existence or operation of a Provincial corporation is not by the Act or instrument constituting it, limited in time or area the corporation may, in general meeting of the members, called for that purpose by notice duly given, pass a by-law authorizing its directors to extend the business of the corporation beyond Ontario, but in compliance with the law of the country to which the business may be so extended; and the directors may give effect to such by-law without being liable or responsible as for any breach of trust in so doing.

Erection or purchase of buildings required for use of corporation in the foreign jurisdiction.

(2) Where, as provided in this section, a Provincial corporation carries on business outside of Ontario the corporation may in general meeting of the members, called for that purpose by notice duly given, pass a by-law authorizing the directors to invest the money of the corporation in the erection or purchase of buildings required for the occupation

of the corporation in any place where the corporation is so carrying on business and in conformity with the law of the country in which such place is situate. 2 Geo. V. c. 34, s. 22.

CALLS—LIABILITY OF SHAREHOLDER.

23.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held at such times and places and in such payments or instalments as the Special Act, Letters Patent or this Act, or the by-laws of the corporation require or allow; and interest shall accrue upon the amount of any unpaid call from the day appointed for payment thereof. Calling in instalments.

(2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited. Demand to state liability to forfeiture. 2 Geo. V. c. 34, s. 23.

(3) If after the demand any call is not paid within the time and in the manner provided by the Special Act, the Letters Patent, Supplementary Letters Patent or the by-laws, the directors, by resolution to that effect reciting the facts and duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made, and the same shall thereupon become the property of the company and may be disposed of as, by by-law or otherwise, the company may ordain; but such forfeiture shall not relieve the shareholder of any liability to the company or to any creditor. Forfeiture of share. See 2 Geo. V. c. 31, s. 60 (3).

24.—(1) Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution, but not beyond the amount so unpaid on such shares, shall be the amount recoverable, with costs, against such shareholder. Liability of shareholders.

(2) Any shareholder may plead by way of defence, in whole or in part, any set-off which he could set up against the company, except a claim for unpaid dividend, or a salary or allowance as a president or a director of the company. Set-off. 2 Geo. V. c. 34, s. 24.

LENDING POWERS.

The Contract of Loan.

25.—(1) No borrower, whether he is or is not a shareholder in the corporation, shall be bound by the by-laws or rules thereof unless either the words "subject to the by-laws of the corporation," or the words "subject to the rules When borrower bound by rules.

of the corporation," as the case may be, are printed in conspicuous type on the back, and as part of the indorsement of the mortgage or other security given by him.

Who to be
subject to
by-laws, etc.

(2) Although the mortgage or other security is so endorsed a borrower from the corporation who is not a shareholder shall not be subject to the by-laws or rules unless the mortgage or other security expressly stipulates that they shall form part of the contract or obligation entered into by the borrower. 2 Geo. V. c. 34, s. 25.

Contract of
loan to be by
instrument
setting out
all the terms.

Proviso.

Rev. Stat.
c. 112.

Rev. Stat.
c. 117.

26.—(1) Where any loan or advance is made by a corporation the contract shall be evidenced by a written instrument within or on which all the terms and conditions of the contract shall be clearly set out; and unless so set out no term of, or condition, stipulation, warranty, by-law, resolution, rule or proviso varying or modifying the contract shall be valid or shall be admissible in evidence to the prejudice of the borrower; but nothing in this section shall prevent the application to the contract of the provisions of section 25 or of *The Mortgages Act*; or shall prevent the use in the contract of the short form authorized by *The Short Forms of Mortgages Act*, if such contract is expressed to be in pursuance of the last mentioned statute.

Contract not
to be affected
by subse-
quent by-
laws, etc.

(2) As against the borrower, whether a shareholder or member or not, the contract shall not be in anywise altered, varied or affected by any by-law, resolution or rule of the corporation subsequently passed or adopted.

Instrument
to state
particulars
of payment
required to
discharge.

(3) The instrument shall fully and clearly state by the payment of what specific sum or sums, at a place and time or times stated, the loan or mortgage debt is to be discharged; and in case the loan or mortgage debt is dischargeable by instalments or periodical payments shall further clearly set out the several amounts of such instalments or periodical payments and the number thereof respectively required to discharge the loan or mortgage debt.

Borrower not
liable for
losses or for
impairment
of capital.

(4) No term or condition of the contract of loan, or of any contract or agreement collateral thereto, shall render the borrower liable to contribute for losses of the corporation or to make good any impairment of its capital.

Effect of non-
compliance.

(5) Where the instrument does not comply with the requirements of this section the loan or mortgage debt shall be held to consist of the principal sum or sums actually received by the borrower, less any sum or sums repaid by, or standing to the credit of, the borrower, together with simple interest thereon calculated at the legal rate of interest on such sum or sums of principal for the actual time or times during which the borrower has had the use thereof.

Application
of section.

(6) This section shall apply to every contract of loan made or renewed in Ontario after the first day of June.

1904, by any corporation to any borrower on the security of any property, or made or renewed to any borrower elsewhere on the security of property situate in Ontario, and shall have effect as against the lender notwithstanding any stipulation or agreement to the contrary. 2 Geo. V. c. 34, s. 26.

Investments. Holding Land Reserve Fund.

27.—(1) A registered loan corporation and a registered loaning land corporation may lend money on the security of, or purchase or invest in the following:—

- (a) Mortgages, charges, or hypothecs upon real estate in Ontario or in any other country to which the corporation is authorized to extend its business under the provisions of section 22, or mortgages or assignments of such life insurance policies as have at the date of the loan or investment an ascertained cash surrender value admitted by the insurer; May lend on certain securities.
Real estate and life insurance.
- (b) Debentures, bonds, paid up stock and other securities, except bills of exchange and promissory notes, of or guaranteed by any government, or of any municipal corporation or school corporation or of any chartered bank or incorporated company, if such bank or company is incorporated by Canada, or by any Province of Canada, or by any former Province now forming part of Canada. Government, municipal, school and company debentures and paid-up stock.
R.S.C. c. 79, s. 198.

(2) Subject always to the limitations imposed by section 32 any such corporation heretofore so authorized may, notwithstanding the provisions of subsection 1, invest in and lend upon real estate or securities other than those in that subsection mentioned. Powers continued.

(3) Any such corporation may take personal security as collateral for any advance made or to be made or for any debt due to such corporation. Personal security as collateral.

(4) Any such corporation may, with the assent of two-thirds of the shareholders present or represented by proxy at an annual or special general meeting, called with due notice of such proposal, lend upon the security of the debentures, bonds, obligations or paid-up stock of any corporation other than those corporations heretofore in this section mentioned, but the aggregate of all such lending shall not exceed at any one time twenty-five per cent. of the paid-in capital of the lending corporation, and where the borrower is a corporation shall not exceed at any one time twenty-five per centum of the paid-in capital of the borrowing corporation. Lends on other classes of security with assent of two-thirds of shareholders.

Power to do acts and to exercise remedies.

(5) The corporation may do all acts that are necessary for advancing such sums of money, and for receiving and obtaining repayment thereof, and for compelling the payment of all interest accruing due thereon, and the observance and fulfilment of any conditions annexed to the advance, and for enforcing the forfeiture of any term or property consequent on the nonfulfilment of such conditions, or of conditions entered into for delay of payment. 2 Geo. V. c. 34, s. 27.

May hold certain estates and interests in land; and may dispose of same.

28.—(1) A registered corporation may hold real estate which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of the same; and may sell or otherwise dispose of as it deems advisable any mortgage or security which it has lawfully acquired.

Limitation of time for holding except in case of loaning land corporation.

(2) The corporation, not being a loaning land corporation registered under this Act, shall, subject to the provisions of the next following section, sell any real estate acquired by it under any mortgage, charge or hypothecation, or in satisfaction of any debt, within twelve years after it has been so acquired, otherwise it may be forfeited to His Majesty for the use of the Crown; but no such forfeiture shall be enforced until the expiration of six calendar months after notice in writing to the corporation of the intention of His Majesty to claim such forfeiture.

Powers as grantor or grantee, assignor or assignee.

Rights of grantee or assignee.

(3) The corporation may give receipts, acquittances and discharges, either absolutely and wholly or partially, and may grant or take such deeds, assignments or other instruments as are necessary for carrying any such holding, purchase, exchange or resale into effect; and the grantee or assignee in any such instrument shall stand in the place of, and be entitled to, and have all the same rights, powers and remedies, and shall be subject to the same obligations and liabilities as the grantor or assignor would have been entitled to or would have been subject to if the grant or assignment had not been made. 2 Geo. V. c. 34, s. 28.

Power to hold real estate for business.

29. A registered corporation may hold absolutely to its own use and benefit such real estate as is necessary for the transaction of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of the same. 2 Geo. V. c. 34, s. 29.

Power to construct larger building and to lease part thereof.

30. A registered corporation, when so authorized by the Letters Patent or by the Lieutenant-Governor in Council, may acquire or may construct, on any lands so held, a building larger than is required for the transaction of its business and may lease any part of such building not so required. 2 Geo. V. c. 34, s. 30.

31. A registered corporation may maintain a reserve fund out of its earnings or other income not required to meet its present liabilities. 2 Geo. V. c. 34, s. 31.

Reserve fund.

Loans to Shareholders upon Shares.

32.—(1) A loan corporation and a loaning land corporation may pass a by-law prohibiting absolutely the loaning to shareholders upon the security of their shares, or, subject to the limitations contained in this section, may pass a by-law fixing the aggregate amount which may be loaned on such shares, and neither of such by-laws shall be repealed until all liabilities of the corporation are discharged.

Prohibition or limitation of loans upon shares.

(2) Subject to subsection 1 the corporation may lend upon its own paid-up stock to an amount not exceeding at any one time in the aggregate of all such loans ten per centum of the corporation's paid-up stock.

Limitation as to loans on its own stock.

(3) No such loan shall exceed eighty per cent. of the market price of the stock. 2 Geo. V. c. 34, s. 32.

Margin.

33. A corporation shall not, except in the manner provided by section 32, lend on its own shares with or without collateral security. 2 Geo. V. c. 34, s. 33.

Not to lend on own stock.

Interest; Payments of Blended Interest and Principal; Limitation of Mortgagor's Liability for Interest.

34. Subject to the provisions of the next following section a registered corporation may stipulate for, take, reserve and exact any rate of interest or discount that may lawfully be taken by individuals, and may also receive payment at any time on any loan or advance. 2 Geo. V. c. 34, s. 34.

Rate of interest.

R.S.C., 1906, c. 120, s. 1.

35.—(1) Wherever any principal money or interest secured by mortgage of real estate is, by the same, made payable on the sinking fund plan, or on any plan under which the payments of principal money and interest are blended, or on any plan which involves an allowance of interest on stipulated repayments, no interest whatever shall be chargeable, payable or recoverable on any part of the principal money advanced, unless the mortgage contains a statement showing the amount of such principal money and the rate of interest chargeable thereon, calculated yearly, or half-yearly, not in advance.

No interest recoverable in certain cases unless the mortgage contains a certain statement.

R.S.C., 1906, c. 120, s. 6.

(2) Wherever the rate of interest shown in such statement is less than the rate of interest which would be chargeable by virtue of any other provision, calculation or stipulation in the mortgage, no greater rate of interest shall be chargeable, payable or recoverable on the principal money advanced than the rate shown in such statement.

No rate recoverable beyond that shown in such statement.

R.S.C., 1906, c. 120, s. 7.

No fine allowed on payments in arrear which has the effect of increasing the rate of interest.

Proviso: as to interest on arrears of interest.

R.S.C., 1906, c. 120, s. 8.

Overcharge may be recovered back.

R.S.C., 1906, c. 120, s. 9.

No further interest payable after five years on certain conditions.

R.S.C., 1906, c. 120, s. 10.

Application of Rev. Stat. c. 112.

Alteration of borrowing powers.

Rights of creditors preserved.

Application of secs. 39 to 49.

(3) No fine or penalty or rate of interest shall be stipulated for, taken, reserved or exacted on any arrears of principal or interest secured by mortgage of real estate which has the effect of increasing the charge on any such arrears beyond the rate of interest payable on principal money not in arrears: but nothing in this section shall have the effect of prohibiting a contract for the payment of interest on arrears of interest or principal at any rate not greater than the rate payable on principal money not in arrear.

(4) If any sum is paid on account of any interest, fine or penalty not chargeable, payable or recoverable under the three subsections next preceding such sum may be recovered back, or deducted from any other interest, fine or penalty chargeable, payable or recoverable on the principal.

(5) Wherever any principal money or interest secured by mortgage of real estate is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then if at any time after the expiration of such five years any person liable to pay or entitled to redeem the mortgage tenders or pays to the corporation entitled to receive the money the amount due for principal money and interest to the time of payment as calculated under the preceding subsections of this section, together with three months' further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage. 2 Geo. V. c. 34, s. 35.

36. Sections 14 and 15 of *The Mortgages Act* shall apply to all mortgages to loan corporations. 2 Geo. V. c. 34, s. 36.

BORROWING POWERS.

37.—(1) Any corporation may with the assent of the Lieutenant Governor in Council evidenced by Letters Patent elect to renounce its existing borrowing powers and to accept those conferred by this Act.

(2) Such alteration of borrowing powers shall not prejudice or affect any existing rights of creditors or any obligations entered into by such corporation prior to such assent. 2 Geo. V. c. 34, s. 37.

Loan Corporations and Loaning Land Corporations.

38. Sections 39 to 49 shall apply to corporations incorporated under the law of Ontario or having their head offices in Ontario other than trust companies, and also to all loan corporations borrowing in Ontario by taking deposits or issuing debentures, debenture stock or like obligations, and to all loaning land corporations so borrowing by issuing debentures, debenture stock or like obligations. 2 Geo. V. c. 34, s. 38.

39.—(1) No corporation constituted with joint stock capital, unless and until it has a subscribed permanent stock of at least \$300,000 on which at least \$100,000 has been actually paid in and is unimpaired, and no corporation constituted without joint stock capital, unless and until it has a paid up, unimpaired, permanent and non-withdrawable capital of at least \$100,000, shall exercise any of the borrowing powers conferred by this Act. Amount of capital to be subscribed and paid before borrowing.

(2) Where a registered corporation constituted with joint stock capital has subscribed permanent stock of at least \$300,000, on which at least \$100,000 has been actually paid in and is unimpaired, or where a registered corporation constituted without joint stock capital has a paid up, unimpaired, permanent and non-withdrawable capital of at least \$100,000, subject to the limitations and restrictions contained in this Act, the directors, pursuant to powers conferred in that behalf by any by-laws or rules of the corporation passed at any general meeting, called with due notice of such proposed by-laws and rules, may borrow money on behalf of the corporation at such rates of interest, and upon such terms as they from time to time think proper; and may for that purpose, subject as hereinafter provided, receive money on loan or on deposit, other than and in addition to money received in respect of stock and shares of the corporation, and issue debenture stock and terminable debentures, bonds and other obligations, as well as execute mortgages under the seal of the corporation, for sums of not less than \$100 each; or may assign, transfer or deposit by way of equitable mortgage or otherwise, for the sum so borrowed, any of the documents of title, deeds, muniments, securities or property of the corporation, and either with or without power of sale or other special provisions, as they deem expedient. 2 Geo. V. c. 34, s. 39. Borrowing powers.

40.—(1) A loan corporation shall not, without the express consent of the shareholders given at a general meeting called with due notice of the proposal, receive money on deposit, otherwise than in respect of shares or stock of the corporation; and when money is otherwise received on deposit the same shall, for the purposes of this Act, be deemed to be money borrowed by the corporation; and with interest thereon as agreed shall be repayable by the corporation either at a time certain, or upon notice, not being less than thirty days, unless notice, or such notice, is waived. Loan corporations receiving money on deposit.

(2) A corporation which is authorized to carry on any other business than that of lending money shall not be entitled to receive deposits; but this shall not apply to a loaning land corporation which was authorized to receive deposits by Letters Patent issued under any former Act and which is now exercising this power. Other corporations.

Ranking of
creditors
on deposits.

(3) In respect of deposits, creditors shall rank upon the assets of the corporation *pari passu* with the holders of debentures and debenture stock.

Limit of
deposits

(4) The amount to be received by any corporation entitled as hereinbefore provided to receive deposits shall not at any time exceed three times the amount of the then actually paid in and unimpaired permanent capital and of the then actual reserve fund of the corporation and of its cash actually in hand or in any chartered bank to the credit of the corporation and beneficially owned by the corporation and not included in either the permanent capital or reserve fund.

Dividends,
etc., not to
be paid out
of reserve.

(5) No dividend or bonus shall be paid or declared either wholly or in part out of the reserve fund which has the effect of diminishing such aggregate below the amount required by this Act for the borrowings of the corporation. 2 Geo. V. c. 34, s. 40.

Denomination
and term
of debentures.

41.—(1) Debentures shall be for such sums, not being less than \$100, and in such currency as the directors deem advisable, and shall be payable not less than one year, nor more than ten years, from the issue thereof, at such place as may be therein mentioned.

Limit of
amount
borrowed.

(2) If the corporation borrows money solely on debentures or other securities and not by way of deposit under section 40, the aggregate amount of the sums so borrowed shall not at any time exceed four times the amount of its paid in and unimpaired capital, or at the option of the corporation the amount of its subscribed, fixed and permanent capital, upon which not less than twenty per centum has been paid.

Enlarged
borrowing
powers not
to prejudice
certain de-
benture
holders.

(3) In the event of a corporation incorporated before the 4th day of May, 1891, availing itself of the provisions of this Act, or having availed itself of the provisions of any Act of Ontario passed after the 3rd day of May, 1891, to enlarge its powers of borrowing money by debentures nothing herein shall affect or impair the rights of the holders of debentures issued by such corporation.

Limit of
amount
where cor-
poration
borrows both
on securities
and on de-
posits.

(4) If a loan corporation borrows money both by way of debentures or other securities, and also by way of deposit, such corporation shall, in respect of deposits received, comply with section 40, and the aggregate amount of its total borrowings shall not at any time exceed the amount of the principal moneys remaining unpaid on securities then held by the corporation, or, in the alternative, shall not exceed the amount of the reserve fund of the corporation and four times the amount of its then actually paid-in and unimpaired permanent capital: but in calculating such aggregate for the purposes of this subsection the amount of cash beneficially owned by the corporation then either actually in the hands of the corporation or deposited by it in any chartered bank shall be deducted. 2 Geo. V. c. 34, s. 41.

42. In ascertaining the extent of the borrowing powers of a corporation all loans or advances to its shareholders upon the security of their shares shall be deducted from the amount of the paid-in capital. 2 Geo. V. c. 34, s. 42.

Deduction to be made in estimating the paid in capital.

43. The directors of a registered corporation to which sub-section 2 of section 39 applies may, from time to time with the consent of a majority of the shareholders, present in person or represented by proxy, at a general meeting called with due notice of the proposal, issue debenture stock which shall be treated and considered as a part of the debenture debt, authorized by section 41, in such amounts and manner, on such terms, and bearing such rate of interest, and in such currency as the directors from time to time think proper, but so that the amount received as money deposits and borrowed on the security of debentures, mortgages, bonds, or other instruments or debenture stock shall not in the whole exceed the aggregate amount fixed by sections 40, 41, and 42 as the limit of the borrowing powers of the corporation. 2 Geo. V. c. 34, s. 43.

Issuing debenture stock.

44. The holders of debenture stock shall not in respect thereof have any of the rights of shareholders, but, subject to sections 40 and 45, shall be entitled to the rights and powers of mortgagees of the undertaking to the extent provided in the by-laws of the corporation authorizing such debenture stock, but without the right to require repayment of the principal money paid in respect thereof. 2 Geo. V. c. 34, s. 44.

Rights of holders of debenture stock.

45.—(1) Debenture stock shall rank equally with debentures issued, or to be issued, by the corporation, and the holders thereof shall not be liable or answerable for any debts or liabilities of the corporation.

Debenture stock, how ranked.

(2) In case of a liquidation of the corporation, or other distribution of its assets, a holder of debenture stock shall for arrears of interest, if any, and for the then present or capitalized value of the future interest annually payable rank *pari passu* with depositors and debenture holders. 2 Geo. V. c. 34, s. 45.

Ranking of debenture stockholders in respect of interest.

46. The corporation shall cause entries of the debenture stock from time to time created to be made in a register, to be known as the Debenture Stock Register, which, in the case of a corporation having its head office in Ontario, shall be kept for that purpose at the head office, wherein shall be entered the names and addresses of the several persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled; and the register shall, during reasonable business hours of every day, except holidays, be accessible for inspection and perusal by himself or his agent

Register of debenture stock.

to every debenture holder, mortgagee, bondholder, debenture-stockholder and shareholder of the corporation without the payment of any fee or charge. 2 Geo. V. c. 34, s. 46.

Transfer of
debenture
stock.

47.—(1) Debenture stock shall be transferable in such amounts and in such manner as the directors may determine.

Registry of
transfer.

(2) All transfers thereof shall be registered at the head office.

Transfer
books out
of Ontario.

(3) The corporation may have transfer books for the purposes of such debenture stock at such place or places in Canada, in Great Britain and Ireland, or any foreign country in which transfers of the stock may be made; but all such transfers shall be entered in the book to be kept at the head office. 2 Geo. V. c. 34, s. 47.

Certificates
of debenture
stock.

48. The corporation shall deliver to every holder of debenture stock a certificate stating the amount of the debenture stock held by him, the rate of interest payable thereon and the terms and conditions to which the stock is subject; and all regulations and provisions for the time being applicable to certificates of shares in the capital stock of the corporation shall apply, *mutatis mutandis*, to certificates of debenture stock. 2 Geo. V. c. 34, s. 48.

Exchange of
debentures
for, and re-
demption of
debenture
stock.

49. The holders of debentures of the corporation may, with the consent of the directors, at any time exchange such debentures for debenture stock; and the corporation may from time to time purchase in the open market and, with the consent of the holders thereof, redeem any part of the debenture stock representing money which the directors, by resolution, determine not to be required for the business of the corporation. 2 Geo. V. c. 34, s. 49.

AMALGAMATION OF CORPORATIONS AND PURCHASE AND SALE OF ASSETS.

Loan Companies and Loaning Land Companies.

Power to
unite with
other cor-
porations
and to pur-
chase or sell
assets.

50. A corporation to which subsection 2 of section 39 applies may, as hereinafter prescribed, unite, merge, amalgamate and consolidate its stock, property, business and franchises with those of any other registered corporation, or may sell its assets to any such corporation which is hereby authorized to purchase the same, or may purchase the assets of any such corporation which is hereby authorized to sell the same, and for the purpose of carrying out such purchase or sale the corporation purchasing shall assume the liabilities of the corporation selling, and may enter into such bond or agreement of indemnity with the corporation or the individual shareholders thereof, or both, as may be necessary, and may enter into the contracts and agreements necessary to such union, merger, amalgamation, consolidation, sale, purchase or acquisition. 2 Geo. V. c. 34, s. 50.

51.—(1) The directors of a corporation to which subsection 2 of section 39 applies, and of any other corporation mentioned in section 50, may enter provisionally into a joint agreement under the corporate seal of each of the corporations for the union, merger, amalgamation or consolidation of such corporations, or for the sale or purchase by the one corporation of the assets of the other corporation.

Directors may make agreement for amalgamation or for purchase or sale of assets.

(2) The agreement shall prescribe the terms and conditions of the proposed transaction, and the mode of carrying the same into effect.

Matters to be specified in agreement.

(3) If the two corporations are to be merged into one corporation the agreement shall specify the name of the new or of the continuing corporation, and the number of directors and other officers thereof, and shall state who shall be the first directors and officers, the capital stock, the number of shares into which such stock is divided, the par value of the shares and the manner of converting the capital stock of each of the existing corporations into that of the new or continuing corporation.

Item.

(4) The agreement shall contain such other details as the directors of the several corporations deem necessary to perfect the new organization, and the union, merger, amalgamation and consolidation, and the after management and working thereof, or to complete the terms and mode of payment for the assets of one corporation sold, purchased or acquired by the other.

Other details.

(5) In any agreement for the purchase and sale of assets, the consideration may consist wholly or in part of partly paid or of paid-up shares of the permanent capital stock of the purchasing corporation.

Consideration.

(6) Such agreement, or if no agreement has been entered into but an offer has been made by a corporation under its corporate seal for the purchase of the assets of another corporation such offer, shall be submitted to the shareholders of each corporation at a meeting thereof to be held separately for the purpose of taking the agreement or the offer into consideration.

Agreement to be subject to approval of shareholders.

(7) Notice of the time and place of the meeting of the corporation in which he holds shares and the objects thereof shall be given by written or printed notice addressed to every shareholder, together with a copy of the proposed agreement, at his last known post office address or place of residence, and also by a general notice in a newspaper published at the chief place of business of the corporation once a week for six successive weeks.

Notice of meeting to consider agreement.

(8) The like notice, together with two copies of the proposed agreement, shall be delivered to the Registrar at least one month before the date of either of the meetings of shareholders called to consider it. 2 Geo. V. c. 34, s. 51.

Notice to registrar.

Proceedings
to ratify
agreement.

52. At each of the meetings of shareholders the agreement or offer shall be considered, and a vote by ballot taken for the ratification or acceptance, or for the rejection of the same, each share entitling the holder thereof to one vote and the ballots being cast in person or by proxy, and if two-thirds of the votes of all the shareholders of each corporation, representing not less than two-thirds in value of its paid in capital or stock, are for the ratification of the agreement or the acceptance of such offer, that fact shall be certified upon the agreement or offer by the secretary or manager under the corporate seal. 2 Geo. V. c. 34, s. 52.

Who may
vote.

53. The shareholders who may vote at any such meeting shall be those only whose names are duly entered in the books of the corporation at the date of the first publication of the notice calling the meeting, and they shall vote only upon the shares then standing in their respective names. 2 Geo. V. c. 34, s. 53.

Dispensing
with ratifi-
cation.

54. The Lieutenant-Governor in Council, in the case of a proposed purchase of assets, may dispense with the ratification or acceptance of the agreement or offer by the shareholders of the purchasing corporation where it is shown to his satisfaction that such shareholders, after due notice thereof, have ratified a general resolution or by-law authorizing the purchase of the assets of any loan corporation upon the basis and within the limits specified in such agreement or offer. 2 Geo. V. c. 34, s. 54.

Ratified
agreement
to be filed
with Regis-
trar for
assent.

55.—(1) If the agreement is ratified or the offer is accepted at the meeting of the shareholders of each of the corporations, or in the case provided for in the next preceding section at the meeting of the shareholders of the selling corporation, the agreement or offer, with the certificates or certificate thereon, shall be filed with the Registrar.

Assent of
Lieutenant-
Governor
in Council.
Effect of
assent.

(2) The Registrar shall submit such agreement or offer for the assent of the Lieutenant-Governor in Council.

(3) After the assent of the Lieutenant-Governor in Council thereto the agreement or offer shall be deemed to be the agreement and act of union, amalgamation and consolidation of the corporations, or the agreement and deed of purchase and acquisition of the assets of the selling corporation by the purchasing corporation. 2 Geo. V. c. 34, s. 55.

Certificate
of assent by
Minister

56.—(1) Upon proof that the foregoing requirements have been duly complied with the Minister shall issue a certificate under his hand and seal certifying the assent of the Lieutenant-Governor in Council and the date thereof, and declaring the purchase and the sale of the assets and the names of the corporations parties thereto, or, in the case of amalgamation, declaring the amalgamation of the corporations, naming them, and the name of the new or of the con-

tinuing corporation, together with such other matters, if any, as may appear to him necessary or desirable in the public interest.

(2) The certificate of the Minister shall for all purposes ^{Effect} and in all courts be conclusive evidence of all matters therein ^{as evidence.} certified or declared.

(3) The Registrar shall give public notice in the *Ontario* ^{Publication.} *Gazette* of the issue of the Minister's certificate.

(4) It shall be sufficient to register a certified copy of the Minister's certificate once for all in each Registry Division or Land Titles Office in which instruments affecting ^{Registration of certificate of assent to amalgamation, etc.} lands or interests in lands included or intended to be included in the transfer or amalgamation, are registered.

(5) The fee payable for the registration thereof shall be ^{Fee payable for registration.} one dollar if the certificate is five folios or under, and for each folio above five ten cents additional.

(6) Any document under the hand, or purporting to be under the hand, of the Registrar, certifying such document to be or to contain a true copy of the Minister's certificate or of any instrument referred to in such certificate, shall be registered by the Registrar in any Registry Division, or by the Master or Local Master of Titles upon the same being tendered to him for registration accompanied by the proper fee. ^{Certificate of Registrar, registration of.}

(7) The certificate shall be entered in the General Register of the Registry Division or in the book kept in the Land ^{Registration in general register.} Titles Office.

(8) Copies so certified of any such certificate or instrument shall be received by the Master of Titles and Local Masters of Titles, under the provisions of *The Land Titles Act*, as conclusive evidence of all matters therein certified ^{Certified copies of certificate as evidence before Master of Titles.} or declared. ^{Rev. Stat. c. 126.}

(9) For the purpose of any instrument required to be registered or filed under *The Bills of Sale and Chattel Mortgage Act*, it shall be sufficient in order to show the transmission of title in respect of any personal property or interest in personal property included, or intended to be included, in a transfer or amalgamation, such as is mentioned in section 55 and this section, if the instrument affecting such property or interest recites the certificate registered as provided in subsection 4 of this section, and states the registry division in which the same is registered and its registration number. ^{As to Bills of Sale and Chattel Mortgages Rev. Stat. c. 135.}

(10) This section shall extend to and include any such certificate or certified copy issued or purporting to have been issued under *The Loan Corporations Act* since the thirteenth day of April, 1897. ^{Application of section. R.S.O., 1897, c. 205.} 2 Geo. V. c. 34, s. 56.

Evidence of
assent of the
Lieutenant-
Governor in
Council.

57. The Registrar may, by a certificate under his hand and seal, indorsed upon or identifying the agreement or offer mentioned in subsection 6 of section 51, or any counterpart or copy thereof, certify that such agreement or offer has been assented to by the Lieutenant-Governor in Council, and his certificate with a copy of the Order in Council attached shall be *prima facie* evidence of such assent. 2 Geo. V. c. 34, s. 57.

Assets of
selling cor-
poration to
vest in pur-
chasing cor-
poration.

58. (1) In the case of a purchase and sale of assets so assented to the assets of the selling corporation shall become absolutely vested in the purchasing corporation on and from the date of such assent without any further conveyance and the purchasing corporation shall thereupon become and be responsible for the liabilities of the selling corporation.

Disposal of
assets by
purchasing
corporation.

(2) In dealing with the assets of the selling corporation it shall be sufficient for the purchasing corporation to recite the agreement and the assent of the Lieutenant-Governor in Council thereto, with the date of such assent.

Rights of
creditors.

(3) No such transfer shall affect the rights of any creditor of the transferring corporation.

Privity of
contract be-
tween pur-
chasing cor-
poration and
each creditor
of selling
corporation.

(4) By every such agreement made or purporting to be made under this Act the purchasing corporation shall be deemed to covenant and agree with each creditor of the selling corporation that the purchasing corporation will pay to him the sum in which the selling corporation is indebted to him at such time and place as such sum would have been payable had such agreement not been made.

Dissolution
of selling
corporations
and of cor-
porations
amalgamated.

(5) Where the Lieutenant-Governor in Council assents to an agreement for the sale of the assets of a corporation, or to an agreement for the amalgamation of two or more corporations, the selling corporation, or the several corporations amalgamated, as the case may be, shall, from the date of such assent, be dissolved except so far as is necessary to give full effect to the agreement. 2 Geo. V. c. 34, s. 58.

Property and
rights of both
companies
vested in new cor-
poration.

59.— 1) In the case of an amalgamation the corporations parties thereto shall, from the date of the assent of the Lieutenant-Governor in Council, be consolidated and amalgamated and be merged in and form one corporation by the name stated in the Minister's certificate, and shall, subject to the law of Ontario, possess all the rights, privileges and franchises of each of the amalgamated corporations.

Business and
property
vested in new
corporation.

2) From the date of the assent all the business property, real and personal, and all rights and incidents appurtenant thereto, all stock, mortgages, or other securities, subscriptions and other debts due on whatsoever account, and other things in action belonging to each of such corporations shall be vested in the new or continuing corporation without further act or deed.

(3) All rights of creditors and liens upon the property of each of the corporations shall be unimpaired by the amalgamation. Creditors' rights.

(4) All debts, liabilities and duties of each of the amalgamated corporations shall thenceforth attach to the new or continuing corporation, and may be enforced against it to the same extent as if the same had been incurred or contracted by it. 2 Geo. V. c. 34, s. 59. Debts and liabilities.

Trust Companies.

60.—(1) In this section "Fiduciary" shall include trustee, executor, administrator, assignee, guardian, committee, receiver, liquidator or agent; and "Instrument" shall include every will, codicil, or other testamentary document, settlement, instrument of creation, deed, mortgage, assignment, Act of the Legislature, and a judgment, decree, order, direction and appointment of any court, judge, or other constituted authority. Interpretation. "Fiduciary." "Instrument."

(2) Sections 50 to 59 shall apply to the purchase and sale of the assets of a trust company by and to another and to the amalgamation of trust companies, such corporations being incorporated under the law of Ontario or having their head offices in Ontario, and registered under this Act. Sections 50 to 59 to apply to trust corporations.

(3) On and from the assent of the Lieutenant-Governor in Council, as provided in subsection 1 of section 56, to the purchase and sale, or to the amalgamation, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon either of the corporations, parties to the purchase and sale, or to the amalgamation, shall be vested in and bind and may be enforced against the purchasing or new or continuing corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument. Trusts to pass to new corporations.

(4) Whenever in any instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the selling corporation or of either of the amalgamated corporations as the fiduciary, the name of the new or continuing corporation shall be deemed to be substituted for the name of the old corporation: and such instrument shall vest the subject-matter therein described in the new or continuing corporation according to the tenor of, and at the time indicated or intended by the instrument, and the new or continuing corporation shall be deemed to stand in the place and stead of the old corporation. Subject matter of trust to vest in new corporation.

(5) Where the name of the selling corporation or of either of the amalgamated corporations appears as executor, trustee, or agent, the name of the new or continuing corporation shall be deemed to be substituted for the name of the old corporation. References in will or codicil.

for, guardian, or curator in a will or codicil such will or codicil shall be read, construed and enforced as if the new or continuing corporation was so named therein; and it shall, in respect of such will or codicil, have the same status and rights as the selling or amalgamating corporation.

Duties of old corporation not completed.

(4) In all probates, administrations, guardianships, curatorships or appointments of administrator or guardian *ad litem* a resolution issued or made by any Court of Ontario to the selling corporation or to either of the amalgamated corporations, from which at the date of such assent it had not been finally discharged, the new or continuing corporation shall *ipso facto* be substituted therefor. 2 Geo. V. c. 34, s. 60.

SHAREHOLDERS AND DEPOSITORS.

Co-partners and corporate bodies.

(1) Corporate bodies and co-partners may hold shares in any registered corporation. 2 Geo. V. c. 34, s. 61.

Certain minors may make deposits.

(2) A person not of the full age of twenty-one years but of the age of fifteen years or upwards may deposit money with a registered loan corporation in his own name, and the same may be repaid to him, and he may give a valid discharge therefor, notwithstanding his minority. 2 Geo. V. c. 34, s. 62.

EXECUTION OF TRUSTS.

Trusts.

(1) A corporation shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any share of its stock, or any deposit, debenture, or debenture stock may be subject.

Sufficient discharge.

(2) The receipt of the person in whose name any such share, deposit, debenture or debenture stock stands in the books of the corporation shall be a sufficient discharge to the corporation for any payment made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of such trust.

Application of money paid.

(3) A corporation shall not be bound to see to the application of the money paid upon such receipt.

Representatives, guardians, or trustees not to be personally liable.

(4) No person holding shares in the corporation as executor, administrator, guardian, committee of a lunatic, or trustee of or for any estate, trust or person named in the books of the corporation as being so represented by him, shall be personally subject to any liability as a shareholder, but the estate and funds in his hands shall be liable in like manner and to the same extent as the testator, intestate, ward or person interested in such trust fund would be if living and competent to hold the shares in his own name.

(5) If the trust is for a living person, not under disability, Liability of beneficiary. such person also shall be liable as a shareholder.

(6) If such testator, intestate, ward, lunatic or person so Where beneficiary etc., not named, trustee, etc. liable. represented is not named in the books of the corporation the executor, administrator, guardian, committee or trustee shall be personally liable in respect of such shares as if he held them in his own name as owner thereof. 2 Geo. V. c. 34, s. 63.

EXECUTION CREDITORS; NOMINATION BY INVESTOR OR DEPOSITOR;
 INTESTACY; PAYMENTS UNDER MISTAKE; TRANSMISSION OF
 INTEREST.

64.—(1) Any surplus not exceeding \$300 over and above Disposition of proceeds of sale under mortgages. the amount due to the corporation, including costs, derived from the sale under power of sale of any property mortgaged to the corporation, where the mortgagor or his assigns has or have died intestate, shall be personal property, whether the sale took place before or after the death of the mortgagor or person entitled to the equity of redemption.

(2) Where the surplus exceeds \$300 nothing in this sec- Rights of execution creditors. tion shall prejudice any right or lien of an execution creditor in respect of such excess. 2 Geo. V. c. 34, s. 64.

65. To the extent of \$300 the amount standing to the Exemption. credit of any depositor in a registered corporation shall not, while in the hands of the corporation or while in course of transmission from the corporation, be liable to demand, seizure or detention under legal process as against the depositor or his nominee, assignee, or representative, or as against any person to whom the corporation is by the two next following sections authorized to pay said sum. 2 Geo. V. c. 34, s. 65.

66.—(1) A depositor with a loan corporation having on When depositors may nominate a successor. deposit a sum not exceeding \$300 may, from time to time, by a writing signed by him and deposited with the corporation, nominate any person to receive the money at his death.

(2) Upon receiving an affidavit of the death of the de- Substitution of nominee on death of nominator. positor the directors may substitute on the books of the corporation the name of the nominee in the place of the depositor, or may immediately pay to the nominee the amount due to the deceased. 2 Geo. V. c. 34, s. 66.

67. If a depositor with a loan corporation, having on Disposition of funds of intestate members. deposit a sum not exceeding \$300, dies intestate and without making such nomination, the amount due may, without letters of administration being taken out, be paid to the person who appears to the directors to be entitled under *The Devolution of Estates Act* to receive the same, upon receiving an affidavit of the death and intestacy, and that the person claiming is so entitled. 2 Geo. V. c. 34, s. 67. Rev. Stat. c. 119

Payments
by mistake
by the
corporation,
when valid.

68. Where the directors, after the death of a depositor, have paid such sum to the person who at the time appeared to be entitled to the same under the belief that the depositor died intestate without having appointed any nominee the payment shall be valid and effectual with respect to any demand from any other person as next of kin or as the lawful representative of the deceased against the corporation; but the next of kin or representative shall be entitled to recover the amount of such payment from the person who received the same. 2 Geo. V. c. 34, s. 68.

STATUTORY MEETING.

Statutory
meetings.

69.—(1) Every corporation shall, within a period of not less than one month nor more than three months from the date at which the corporation is entitled to commence business, hold a general meeting of its shareholders which shall be called the statutory meeting.

Report to be
sent to
shareholders.

(2) The directors shall, at least ten days before the day on which the meeting is to be held, forward to every shareholder of the corporation a report certified by not less than two directors of the corporation stating:

- (a) The total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) The total amount of cash received by the corporation in respect of such shares, distinguished as aforesaid;
- (c) An abstract of the receipts and payments of the corporation on capital account to the date of the report, and an account or estimate of the preliminary expenses of the corporation;
- (d) The names, addresses and descriptions of the directors, auditors, if any, manager, if any, and secretary of the corporation; and
- (e) The particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

Report to be
certified by
auditors.

(3) The report, so far as it relates to the shares allotted by the corporation, and to the cash received in respect of such shares, and to the receipts and payments of the corporation on capital account, shall be certified as correct by the auditors, if any, of the corporation.

(4) The directors shall cause a copy of the report, certified as by this section required, to be filed with the Registrar forthwith after the sending thereof to the shareholders of the corporation.

Report to be filed with Registrar.

(5) The directors shall cause a list showing the names, descriptions and addresses of the shareholders, and the number of shares held by them, respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any shareholder of the corporation during the continuance of the meeting.

Lists of shareholders to be produced at meeting.

(6) The shareholders present at the meeting shall be at liberty to discuss any matter relating to the formation of the corporation, or arising out of the report, whether previous notice has been given or not, but no resolution of which notice has not been duly given may be passed.

Shareholders may discuss business of company at meeting.

(7) The meeting may adjourn from time to time, and at any such adjourned meeting any resolution of which notice has been duly given, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

Adjournments.

(8) If default is made in filing such report or in holding the statutory meeting, then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may petition the Court for the winding up of the corporation, and the Court may either direct that the corporation be wound up or give directions for the report being filed or a meeting being held, or make such other order as may be just, and may order that the costs of the petition be paid by any persons who, in the opinion of the Court, are responsible for the default. 2 Geo. V. c. 34, s. 69.

Application to Court if default made in holding meeting.

GENERAL MEETINGS OF SHAREHOLDERS.

70.—(1) A general meeting of the shareholders shall be held at least once in each year for the purpose of considering the financial statement of the corporation, and the election of directors and auditors, and the transaction of such other business as is proper at such regular general meeting under the law of Ontario and the by-laws of the corporation.

Annual general meeting.

(2) Notice of the time and place of the holding of the annual general meeting of the shareholders shall be delivered, or shall be sent by post to the address of each shareholder so far as the same is known, or, on request, to his proxy residing in North America or the United Kingdom; and such notice of the meeting shall be so delivered or sent at least fifteen days previously to the time fixed for holding such meeting, and a copy of the annual statement of the directors shall accompany the notice. 2 Geo. V. c. 34, s. 70.

Notice of annual meeting.

Special
general
meetings
by resolution
of directors;

71. (1) The directors shall have the right at any time by resolution of the board passed in that behalf to call a special general meeting of the shareholders for the transaction of any business specified in such resolution.

or on requisition of
shareholders.

(2) One-fourth part in value of the shareholders of the corporation shall, by requisition delivered to the manager, acting manager, or secretary thereof, have at all times the right to have a special general meeting called by such officer for the transaction of any business specified in such requisition.

Notice re-
quired for
special gen-
eral meeting.

(3) Notice of the holding of every special general meeting of the shareholders, specifying the time and place of the meeting and the business to be transacted thereat, shall be delivered or shall be sent by registered post, to the address of each shareholder, so far as the same is known, at least ten days before the day appointed for the meeting.

Other busi-
ness not to
be trans-
acted except
by unani-
mous
consent.
Proof of
notice.

(4) No other business shall be transacted at any such meeting unless all the shareholders are present in person or by proxy and unanimously consent thereto.

(5) Before the business of any special general meeting is proceeded with there shall be produced and read a statutory declaration of the manager, acting manager or secretary of the corporation that the requirements of this section as to notice have been fully complied with.

Minutes.

(6) A copy of the notice so delivered or sent, and of such declaration in relation thereto, shall be entered in the minute book of the corporation as part of the proceedings of the meeting. 2 Geo. V. c. 34, s. 71.

Penalty.

72. Any director or officer of any Provincial corporation wilfully neglecting or omitting to give effect to the requisition mentioned in section 71, or to give the notice of any general meeting required by sections 70 or 71 shall be guilty of an offence. 2 Geo. V. c. 34, s. 72.

Voting power
of share-
holders.

73. At all meetings of shareholders of the corporation a shareholder shall have one vote for each share held by him upon which he is not six months in arrear. 2 Geo. V. c. 34, s. 73.

Proxies.

74. A shareholder may either vote in person or be represented and vote by a proxy who is a shareholder of the corporation and not six months in arrear. 2 Geo. V. c. 34, s. 74.

Minute book
of corpora-
tion.

75. The transactions of all general meetings of the corporation and of all meetings of the board of directors shall be entered in a book to be known as the Minute Book of the corporation. 2 Geo. V. c. 34, s. 75.

BY-LAWS.

76. A meeting of the shareholders, called with due notice thereof, may make such lawful and proper by-laws for the government of the corporation, not repugnant to the provisions of this Act or any other law in force in Ontario, as the majority of the shareholders present in person or by proxy deem meet. 2 Geo. V. c. 34, s. 76.

Shareholders may make by-laws.

77. Every by-law shall be reduced to writing and shall have affixed thereto the common seal of the corporation, and shall be receivable in evidence without proof of the seal or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. 2 Geo. V. c. 34, s. 77.

To be sealed.
Evidence thereof.

78.—(1) The by-laws shall be forthwith recorded in a book to be kept by the corporation for that purpose and to be known as the "By-Law Book."

By-laws to be recorded.

(2) Such book shall, without the payment of any fee or charge, during reasonable business hours of every day, except holidays, be open for the inspection of any shareholder, depositor, debenture holder, or debenture-stockholder by himself or his agent, and every such person may make extracts therefrom. 2 Geo. V. c. 34, s. 78.

Right to inspect by law book.

79. Every corporation shall deliver to the Registrar within one month after the passing thereof a certified copy of its by-laws and of every repeal, or addition to, or amendment or consolidation thereof. 2 Geo. V. c. 34, s. 79.

Copy of by-laws, etc., to be filed with Registrar.

80.—(1) Every corporation doing business in Ontario, if required so to do by the Registrar, shall furnish satisfactory evidence that any by-law has been duly passed, and is a legal and valid by-law according to the Act or instrument incorporating the company and also that the by-law conforms to the law of Ontario.

Return of evidence as to By-laws.

(2) A corporation refusing or failing to furnish such evidence promptly shall be liable to have its registry suspended or cancelled. 2 Geo. V. c. 34, s. 80.

Refusal to furnish evidence.

81.—(1) The shareholders in general meeting may by law, of which as proposed notice shall be given to each shareholder with the notice of such meeting, empower the directors to make, amend and repeal by-laws for the corporation.

Delegating to directors power to make or amend by-laws.

(2) Every such by-law of the directors and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the corporation duly called for that purpose, shall have force only until the next annual meeting of the corporation; and in default of confirmation thereat shall, at and from that time, cease to have force; and

Confirmation necessary.

in that case no new by-law to the same or the like effect or re-enactment thereof shall have any force until confirmed at a general meeting.

Shareholder may
vote.

(3) The corporation may either at a general meeting duly called for that purpose, or at the annual meeting repeal, amend, vary or otherwise deal with any by-law passed by the directors; but no act done or right acquired under any by-law shall be prejudicially affected by any such repeal, amendment, variation, or other dealing. 2 Geo. V. c. 34, s. 81.

Alteration at
general
meeting.

82. At such general meeting the shareholders may, by a like vote, alter or amend such by-laws, and may confirm the same as so altered and amended. 2 Geo. V. c. 34, s. 82.

BOARD OF DIRECTORS, ITS CONSTITUTION AND POWERS.

Term of
office.

83.—(1) The term of office of the directors shall not exceed two years.

(2) Where the term of office is one year only the number of directors shall not be less than five.

(3) Where the term of office is two years the number of directors shall be an even number not less than six, and one-half of the directors shall retire annually at the general meeting in rotation, but shall, if otherwise qualified, be eligible for re-election.

No limit
as to
age.

(4) Where the term of office is two years the first elected directors shall at their first meeting determine by lot which of them shall retire at the end of the first year. 2 Geo. V. c. 34, s. 83.

Ballot.

84.—(1) The election of directors shall be by ballot.

Qualifica-
tion of
directors.

(2) No person shall be qualified to be a director unless he is of the full age of twenty-one years and is a shareholder holding, in his own right, shares or stock of the corporation, on which at least \$1,000 has been paid in, and is not in arrear in respect of any call thereon.

Majority to
be resident
and British
subjects.

(3) The majority of the directors shall at all times be resident in Ontario and subjects of His Majesty by birth or naturalization.

Not to apply
to next
election of
directors.

(4) Where, at the time of the coming into force of this Act, less than a majority of the directors are resident in Ontario and subjects of His Majesty by birth or naturalization, the provisions of subsection 3 shall not apply to such corporation until the time fixed for the next general annual meeting.

New election
to fill
directorships
to which call.

(5) Where at an election more than the prescribed number of non-residents and aliens are elected, a new election shall forthwith be held to fill all the directorships to which aliens

or non-residents have been elected, and so on until the number of non-residents or aliens is reduced to the prescribed number.

(6) The remuneration of directors shall be fixed by the shareholders in general meeting. 2 Geo. V. c. 34, s. 84. Remuneration. R.S.C. c. 79, s. 127.

85. If at any time an election of directors is not held, or does not take effect at the proper time, the corporation shall not be thereby dissolved, but the election may take place at any general meeting of the corporation duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. 2 Geo. V. c. 34, s. 85. Provision in case of failure of election.

86. Vacancies occurring in the board of directors may be filled for the unexpired remainder of the term by the board from among the qualified shareholders of the corporation. 2 Geo. V. c. 34, s. 86. Interim vacancies.

87. In every Provincial corporation the directors shall and may lawfully exercise all the powers of the corporation except as to such matters as are directed by law or by the by-laws of the corporation to be transacted at a general meeting thereof and have not been by a general meeting delegated to the directors as provided by section 81. 2 Geo. V. c. 34, s. 87. Powers of directors.

88. The directors shall from time to time elect from among themselves a president and vice-president, and they shall in all things delegated to them act for and in the name of the corporation, and the concurrence of a majority of the directors present at any meeting shall at all times be necessary to any act of the board. 2 Geo. V. c. 34, s. 88. President and vice-president.

89. On any question before the board each director shall have one vote, and in the event of an equality of votes the president or presiding officer shall have a second or casting vote. 2 Geo. V. c. 34, s. 89. Casting vote.

90.—(1) The shareholders of a corporation having more than six directors may, at a general meeting called for that purpose, by resolution of two-thirds of the shareholders present in person or by proxy, authorize the directors to delegate any of their powers to an executive committee consisting of not less than three to be elected by the directors from their number. Executive Committee.

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed upon them by such resolution or by the directors. Committee's powers.

(3) Where directors delegate any of their powers to an executive committee the powers so delegated shall be stated in writing and entered in the minute book of the corporation. 2 Geo. V. c. 34, s. 90. Delegated powers to be recorded in minute book.

General powers of directors.

91.—(1) Subject to this Act, and to the Act or instrument constituting the corporation and to the by-laws of the corporation, the directors may:

Use of seal.

(a) Use or cause to be used and affixed the seal of the corporation, and may affix or cause it to be affixed to any document or paper which in their judgment may require the same;

Making, etc., calls.

(b) Make and enforce calls upon the shares of the respective shareholders;

Forfeiture of shares.

(c) Declare the forfeiture of all shares on which such calls are not paid;

Making payments, and entering into contracts.

(d) Make any payments and advances of money they may deem expedient which are authorized to be made by or on behalf of the corporation, and enter into all contracts for the execution of the purposes of the corporation, and for all other matters necessary to the transaction of its affairs;

Dealing with property.

(e) Generally deal with, sell, exchange, lease and dispose of the lands, property and effects of the corporation in such manner as they deem expedient and conducive to the benefit of the corporation;

Other acts.

(f) Do and authorize, assent to or adopt all acts required for the due exercise of any further powers and authorities conferred by this Legislature. 2 Geo. V. c. 34, s. 91.

By-laws for particular purposes.

92.—(1) The directors of any Provincial corporation, authorized as provided by section 81, may make by-laws, not contrary to law or to the special Act or to this Act, to regulate:

Stock.

(a) The allotment of stock, the issue of shares, the making of calls thereon, the payment thereof, the issue and registration of certificates of shares or stock, the forfeiture of shares for non-payment, the disposal of forfeited shares and of the proceeds thereof, the transfer of shares or stock, and subject to section 98 hereof the sub-division of existing shares into shares of smaller amount;

Dividends

(b) The declaration and payment of dividends;

Officers

(c) Subject to the provisions of section 102 the appointment, functions, duties and removal of all agents, officers and servants of the corporation, and their remuneration;

Procedure.

(d) The calling of meetings of the directors and the procedure at such meetings;

Miscellaneous.

(e) The conduct in all other particulars of the affairs of the corporation. 2 Geo. V. c. 34, s. 92.

93.—(1) Except with the consent of the directors no payment on account of capital stock shall be made in advance of calls thereon. Payments on shares in advance of calls.

(2) In respect of any sum so paid a shareholder shall be entitled to participate in any dividend declared, but it shall not bear interest and shall not constitute a loan to or a debt of the corporation. Right to participate in dividends.

(3) The shareholder shall be entitled to have any such advance payment credited to him *pro tanto* as against subsequent calls. 2 Geo. V. c. 34, s. 93. To be credited as against subsequent calls.

TRANSFER OF SHARES.

94.—(1) If the interest of any person in any share in the capital stock, or debenture stock, or in any bond, debenture or obligation of a corporation, not payable to bearer, is transmitted in consequence of the death, or bankruptcy, or insolvency of such person, or by means other than a transfer upon the books of the corporation, the directors shall not be bound to allow any transfer pursuant to such transmission to be entered upon such books, or to recognize such transmission in any manner until a statutory declaration showing its nature and signed by the person claiming by virtue thereof, and also by the former shareholder, if living and competent to make the same, has been filed with the corporation and approved by the directors. Proof necessary on transmission of shares by death, etc

(2) If the declaration purports to be so signed and to be made or acknowledged in the presence of a notary public, or of a Judge of a Court of Record, or of a mayor of any city, town or borough or other place, or a British Consul or Vice-Consul, or other accredited representative of the British or Canadian Government, the directors may, in the absence of actual notice of a contrary claim, give full credit to the declaration. 2 Geo. V. c. 34, s. 94. Discretion of directors.

95.—(1) Where the directors entertain reasonable doubts as to the legality of any claim to or upon any such share, bond, debenture, obligation, or to or upon any dividend, coupon or the proceeds thereof, they may apply to the Supreme Court, stating such doubt, for an order or judgment adjudicating upon such claim, and awarding such share, bond, debenture, obligation, dividend, coupon or proceeds to the person legally entitled to the same, and the Court may restrain any action or proceeding against the corporation, or the directors or officers thereof, for the same subject-matter, pending the determination of the application. When directors have reasonable doubts as to legality of claim.

(2) If the order or judgment of the Court is obeyed the corporation and the directors and officers shall be fully protected and indemnified against all actions, claims and demands in respect of the matters in question in such application and the proceedings thereupon. 2 Geo. V. c. 34, s. 95. Order of Court to be indemnity to company.

96. Subject to subsection 4 of section 97, no by-law shall be passed which in any way restricts the right of a holder of paid-up shares to transfer the same, but nothing in this subsection shall prevent the regulation of the mode of transfer thereof. 2 Geo. V. c. 34, s. 96.

97. (1) No transfer of shares of a Provincial corporation, the whole amount whereof has not been paid, shall be made without the consent of the directors.

(2) Where any such transfer is made with the consent of the directors to a person who is not apparently of sufficient means to fully pay up such shares, subject to subsection 3, the directors shall be jointly and severally liable to the creditors of the company in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been.

(3) If any director present when any such transfer is allowed, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such transfer, and is able to do so, enters on the minute book of the corporation his protest against the same, and within eight days thereafter causes such protest to be notified, by registered letter, to the Minister and the Registrar, such director shall thereby exonerate himself from such liability. 2 Geo. V. c. 34, s. 97 (1-3).

(4) Where a share upon which a call is unpaid is transferred with the consent of the directors, the transferee shall be liable for the call to the same extent and with the same liability to forfeiture of the shares if the call remains unpaid, as if he had been the holder when the call was made, and the transferor shall remain also liable for the call until it has been paid. See 2 Geo. V. c. 31, s. 55 (4).

(5) Where the Letters Patent or the by-laws of a corporation confer that power on the directors they may decline to register a transfer of shares belonging to a shareholder who is indebted to the corporation. 2 Geo. V. c. 34, s. 97 (4).

INCREASE OR DECREASE OF CAPITAL STOCK.

98. (1) The directors of any registered corporation incorporated by or under the law of Upper Canada or of the Province of Canada, or of Ontario, may, at any time after ninety per centum of the permanent capital stock of the corporation has been subscribed and ninety per centum thereof paid in, but not sooner, by by-law provide for the increase of the permanent capital stock to any amount which the directors may consider requisite.

(2) The directors may at any time by by-law provide for the decrease of the permanent capital stock to any amount not less than \$100,000, which they may consider sufficient.

(3) The by-law shall declare the number and par value of the shares of the stock so increased or decreased and provide for the manner in which they are to be allotted, or the rule or rules by which the allotment is to be made.

By-law to declare number and par value of new shares.

(4) The directors may pass a by-law providing upon terms therein stated for the conversion of partly paid up shares into paid up shares of its permanent capital stock.

Conversion of partly paid up shares.

(5) The liability of shareholders to persons who, at the time the stock or shares are so increased, decreased, converted or altered, are creditors of the corporation shall remain as though the stock or shares had not been increased, decreased, converted, or altered.

Rights of creditors preserved.

(6) A copy of every such proposed by-law shall be delivered to the Registrar at least six weeks before being passed by the directors.

Copy to Registrar

(7) Before submission of the by-law to a meeting of shareholders, as provided in subsection 9, such notice shall be given by publication and otherwise as the Registrar shall direct.

Notice of by-law to shareholders.

(8) No by-law for, or having the effect of, increasing or decreasing the permanent capital stock or shares of the corporation, whether such stock or shares are or are not subscribed or issued, or for, or having the effect of, sub-dividing such shares or altering the par value of such shares, or altering the liability of any holder of such stock or shares, or converting partly paid-up shares into paid-up shares, shall have any force or validity until it has been duly adopted and ratified by a vote of shareholders present or represented by proxy at a general meeting of the corporation duly called for considering such by-law, and holding not less than two-thirds of the issued capital stock of the corporation represented at such meeting, and has afterwards been confirmed by the Lieutenant-Governor in Council.

Such by-laws relating to stock or shares to be confirmed by Order-in-Council.

(9) The Lieutenant-Governor in Council may grant such confirmation, if he is satisfied of the *bona fide* character of the changes provided for in the by-law, unless it appears that the confirmation of the by-law would not be in the public interest.

When confirmation may be granted.

(10) With the consent of the corporation, evidenced by a resolution of the directors, the changes provided for in any such by-law may be varied or amended by the confirming order-in-council, and may be made subject to such conditions as the Lieutenant-Governor in Council may deem proper.

Varying by-law on confirmation.

(11) The confirmation by the Lieutenant-Governor in Council may be evidenced by a certificate of the Minister or by a certified copy of the Minister's certificate in the like manner and with the like effect as provided in sections 56 and 57.

Evidence of confirmation by Lieutenant-Governor in Council.

Certificate
to be con-
clusive.

(12) Such certificate shall be conclusive evidence of all matters therein certified or declared, and of the due performance of all matters precedent or preliminary to the granting thereof. 2 Geo. V. c. 33, s. 98.

BOOKS TO BE KEPT BY CORPORATIONS.

Record books
to be kept
and contents.

(11) Every corporation having its head office in Ontario shall cause a book or books to be kept at such head office by the secretary, or by some other officer specially named with that duty, wherein shall be kept recorded:

Copy of
constating
instrument.

(a) A copy of the letters patent or other instrument or Act constituting the corporation, and of any instrument or Act amending or supplementing the same;

By-laws.

(b) All by-laws of the corporation;

Names of
shareholders
and their
addresses.

(c) The names alphabetically arranged of all persons who at and after the passing of this Act are or shall be holders of shares or stock, with the address and calling of every such person while such shareholder; the amounts paid in and remaining unpaid respectively on the stock of each shareholder; and all transfers of stock in their order as presented to the corporation for entry, with the date and other particulars of each transfer, and the date of the entry thereof;

Payments

Transfers.

Debenture
stock.

(d) The like particulars respecting holdings and transfers of debenture stock;

Names, etc.,
of directors.

(e) The name, address and calling of every person who at and after the passing of this Act is or shall be a director of the corporation, with the dates at which he became and ceased to be such director.

Books to be
open for
inspection.

(2) Such books shall, without the payment of any fee or charge, during reasonable business hours of every day, except holidays, be kept open for the inspection of shareholders, depositors, and holders of debentures or debenture-stock of the corporation and their personal representatives, and every such person may, by himself or his agent, make extracts therefrom.

Right to
make
extracts.

Forfeiture
for neglect.

(3) Every such corporation which neglects to keep such book or books shall be liable to forfeit its registry under this Act: and, if a provincial corporation, shall also be liable to forfeit its corporate franchise and rights.

Penalty for
false
entries.

(4) No auditor, director, officer or servant of the corporation shall knowingly make or assist in making any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein.

(5) Any person violating the provisions of this section shall, besides any criminal liability which he may thereby incur, be liable in damages for all loss or injury which any person interested may have sustained thereby. 2 Geo. V. c. 34, s. 99. Liability for damages.

100.—(1) A register of securities shall be kept by every corporation. Register of securities.

(2) The register of a corporation having its head office in Ontario shall include all securities held by the corporation. Where head office in Ontario.

(3) The register of any other corporation shall include all the securities held upon or in respect of property in Ontario. Other corporations.

(4) Within thirty days after the taking of a security a proper entry, specifying the nature and amount of such security, and the names of the parties thereto, with their proper additions, shall be made in such register. 2 Geo. V. c. 34, s. 100. Entry of securities as taken.

101.—(1) Every loan corporation in which and so long as there are any holders of terminating shares or stock shall keep a book, or books, to be known as the Terminating Shares Book, in which shall be entered the name, address and calling of every such person while such shareholder. the number and amount of shares from time to time taken by him, and his several payments thereon, the interest or profits earned by his shares, also the repayments or the advances, if any, made by the corporation on account of his shares. Terminating shares book.

(2) In any case of forfeiture of shares an entry shall be made thereof, with the date of the forfeiture. Entry of forfeiture.

(3) The provisions of subsections 2 to 5 of section 99 shall apply to the books prescribed by section 100 and this section. 2 Geo. V. c. 34, s. 101. Application of subsecs. 2 to 5 of s. 99.

AUDIT; STATEMENT TO SHAREHOLDERS.

102.—(1) The accounts of a corporation shall be examined once at least in every year and the correctness of the balance-sheet shall be ascertained by two or more auditors. Annual audit.

(2) The first auditors of a corporation may be appointed by the directors before the first meeting of the shareholders and shall hold office until the first general meeting. First auditors.

(3) Thereafter the auditors shall be appointed by resolution at a general meeting of the corporation and shall hold office until the next annual meeting unless previously removed by a resolution of the shareholders in general meeting. Appointment of auditors.

(4) The auditors may be shareholders in the corporation, but no person shall be eligible as an auditor who is interested otherwise than as a shareholder in any transaction of the Auditors may be shareholders.

corporation, and no director or other officer of the corporation shall be eligible during his continuance in office.

Registrar
may appoint.

(5) If an appointment of auditors is not made at an annual meeting the Registrar may, on the application of any shareholder of the corporation, appoint an auditor of the corporation for the current year, and fix the remuneration, if any, to be paid to him by the corporation for his services.

Directors
may fill
vacancies.

(6) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act, and any auditor may be eligible for reappointment.

Suspension
of auditors.

(7) The directors may, by a two-thirds vote, suspend any auditor for incapacity, misconduct or negligence until the next general meeting of the corporation, and in the event of suspension shall appoint an auditor *ad interim*.

Remunera-
tion of
auditors.

(8) The remuneration of the auditors shall be fixed by the corporation in general meeting, except that the remuneration of any auditors appointed before the first general meeting or to fill any casual vacancy may be fixed by the directors.

Rights and
duties of
auditors.

(9) Every auditor of a corporation shall have the right of access at all times to the books, accounts and vouchers of the corporation, and may require from the directors and officers of the corporation such information and explanation as may be necessary for the performance of his duties, and the auditors shall sign a certificate at the foot of the balance-sheet stating whether or not their requirements as auditors have been complied with and shall make a report to the shareholders or members on the accounts examined by them, and on every balance sheet laid before the corporation in general meeting during their tenure of office; and in every such report shall state whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the corporation's affairs as shown by its books, and such report shall be read at its general meeting. 2 Geo. V. c. 34, s. 102.

Periodical
financial
statement to
shareholders.

103. (1) The corporation shall once at least in every year cause to be prepared a general statement of its liabilities and assets, specifying in whose custody or possession the funds and effects of the corporation then are, together with a summary account of all sums received or expended by or on account of the corporation since the making of the next preceding periodical statement and bringing forward the cash balance from that statement.

Certified by
officer and
by auditors.

(2) Every such periodical statement shall be attested by the signature of the treasurer or some other principal officer of the corporation, and shall contain a certificate signed by the auditors stating that they have duly audited the books, accounts, securities and vouchers of the corporation and the result of the audit.

(3) Every shareholder shall be entitled to receive from the corporation, without charge, a copy of such signed and certified statement. 2 Geo. V. c. 34, s. 103. Distribution to shareholders.

OFFICERS AND SERVANTS; CUSTODY OF BOOKS AND EFFECTS OF CORPORATION.

104. Subject to section 102 the directors shall from time to time appoint such persons as they think proper to be officers, servants or employees of the corporation, grant such salaries and emoluments as they deem fit, and pay the necessary expenses attending the management of the corporation; and shall from time to time appoint such persons as may be necessary for the purposes of the corporation, for the time and for the purpose expressed in the by-laws, and may from time to time discharge such persons, and appoint others in the room of those who retire, die or are discharged. 2 Geo. V. c. 34, s. 104. Directors to appoint officers.

105. The secretary or treasurer or secretary-treasurer or other officer of the corporation may be styled "Manager," and when the officer is also a director he may be styled "Managing Director." 2 Geo. V. c. 34, s. 105. "Manager" and "Managing Director."

106. Every officer or other person appointed to any office in anyway concerning the receipt, safe-keeping or proper application of money shall furnish security according to the by-laws of the corporation and to the satisfaction of the directors for the just and faithful execution of the duties of his office, and any person entrusted with the performance of any other service may be required by the directors to furnish similar security. 2 Geo. V. c. 34, s. 106. Certain persons in service of corporation to furnish security.

107.—(1) The books used by any auditor, officer, collector or agent for verifying or recording money received for the corporation shall be the property of the corporation. Property in books of account.

(2) Neither the foregoing persons, nor any solicitor, counsel or other person shall have in or upon these or any other of the books of account or record of the corporation any ownership or proprietary right or any right of lien. Idem.

(3) Any person who, in contravention of this section, withdraws, withholds or detains any of such books from the possession or control of the directors, or from the receiver or liquidator of the corporation, shall be guilty of an offence. 2 Geo. V. c. 34, s. 107. Penalty.

108. Where a person who has been but has ceased to be a director, manager, auditor, officer, agent, collector, servant or employee of a corporation, or any other person unlawfully retains possession of any account, books, money, securities, papers, matters or things which are the property of the corporation, a Judge of the Supreme Court or of a County After decease, bankruptcy, etc., of officer, books, etc., to be delivered to corporation.

or District Court, on application of the corporation or any depositor or shareholder therein or of the Registrar, and upon notice to the person affected, may order that such accounts, books, money, securities, papers, matters and things be forthwith delivered to such person as the Judge may direct and in default that the person so retaining possession shall be imprisoned for such period as the Judge may direct or until he complies with the direction of the order, and may authorize the Sheriff of any County or District in which the same may be found forthwith to seize and take such accounts, books, money, securities, papers, matters and things and deliver the same to the person to whom they have been directed to be delivered. 2 Geo. V. c. 34, s. 108.

MISAPPLICATION OF MONEYS.

Penalty for
misapplication
of funds.

109. In addition to making full restitution and to any liability under the criminal law any director, officer, servant or employee of a corporation who diverts or misapplies any money subscribed to, received by, or belonging to the corporation shall incur a penalty of not less than \$100 or more than \$2,000, recoverable by the corporation by action in the Supreme Court. 2 Geo. V. c. 34, s. 109.

ANNUAL STATEMENT TO DEPARTMENT: REGISTRAR'S REPORT.

Annual
statement
to the
Registrar.

110.—(1) The managing director, manager or secretary of every registered corporation shall prepare annually on the 1st day of January, or within two months thereafter, according to a printed form to be supplied on application to the Registrar, a statement of the financial condition and affairs of the corporation up to the 31st December next preceding.

Filing of
statement.

(2) The statement having been adopted by a resolution of the directors, and having been signed and sworn to by the president or vice president and the managing director, manager or secretary with a certified copy of the resolution, and of the auditors' statement or certificate, shall be filed with the Registrar on or before the 1st day of March then next ensuing.

Extension

(3) On sufficient cause shown and upon payment of the prescribed fee the Registrar by writing under his hand and seal may, either before or after the 1st day of March, extend the time for the delivery of the statement.

Penalty for
failure to
file statement
or supply
information.

(4) A corporation which does not file its statement as required by this section, or make prompt and explicit answer to any enquiries then or at any time put by the Registrar touching its contracts, finances, stock, shares, securities, obligations, by-laws or books or, if required, produce for examination its books, records, securities, accounts, and vouchers shall be liable to suspension, cancellation, or non-

renewal of registry, and shall incur a penalty of \$50 for each day of default, but not exceeding in the whole \$1,000.

(5) In the case of an extra-Provincial corporation the statement shall comprise a certified copy of the last audited financial statement published or prepared by the corporation for the information of its shareholders and members, and also a statement of the business of the corporation in Ontario for the year then last ended; and the last mentioned statement shall be signed and sworn to by the chairman of the board or other presiding officer and by the secretary, or by the manager or chief agent and by the accountant or secretary of the corporation.

What required in case of an extra provincial corporation.

(6) With the statement the corporation shall file a certified copy of any statement furnished to shareholders during the year then ended. 2 Geo V. c. 34, s. 110.

Copy of periodical statement or statements.

111. From the statements so filed the Registrar shall cause to be prepared, printed and distributed a report which may be known as the Loan and Trust Corporations Statements for the year ending 31st December, naming the year; and such report shall include a list of registered loan corporations brought up to the date of publication. 2 Geo. V. c. 34, s. 111.

Registrar's Annual Report.

112.—(1) No corporation shall under the penalty of becoming disintituled to registry or of having its registry suspended or cancelled make, print, publish, circulate, authorize or be a party or privy to the making, printing, publishing or circulating of any statement or representation that its solvency or financial standing is vouched for by the Registrar or that the publication of its statement in his report is a warranty or representation of the solvency of the corporation, or of the truth or accuracy of such statement in any particular.

Representations that standing of corporation is vouched for by registrar.

(2) Any director, auditor, officer, servant, employee or agent of a corporation who makes or uses or authorizes or is party or privy to the making or using of any such statement or representation shall be guilty of an offence. 2 Geo. V. c. 34, s. 112.

Penalty.

REGISTRATION OF CORPORATIONS.

113.—(1) There shall be a Registrar and an Assistant Registrar who shall be appointed by the Lieutenant-Governor in Council.

Appointment of registrar and assistants.

(2) The Assistant Registrar shall perform the duties of the Registrar in the case of the latter's absence or illness, or of a vacancy in the office of Registrar, and shall also perform such other duties as shall be assigned to him by the Lieutenant-Governor in Council, by the Minister or by the Registrar. 2 Geo. V. c. 34, s. 113.

Assistant Registrar, duties of.

Actions
against
Registrar.

30 Without the leave of the Attorney-General, no action or proceeding shall be brought or taken against the Registrar or Assistant Registrar for anything done or omitted in the performance, or intended or supposed performance, of his duty under this Act. 2 Geo. V. c. 34, s. 125 (4).

Official seal.

114. The Registrar shall have a seal of office, which shall bear upon its face the words "Registrar of Loan Corporations." 2 Geo. V. c. 34, s. 114; 3-4 Geo. V. c. 18, s. 35 (1).

Registers.

115.—(1) The Registrar shall keep:—

Loan Com-
panies'
Register.

(a) A Register to be called "The Loan Companies' Register," wherein shall be recorded the names of such loan corporations as are from time to time entitled to registry, whose powers do not include the business of buying and selling land, or that of a trustee, executor, administrator, guardian, liquidator, receiver or assignee;

Loaning
Land Com-
panies'
Register.

(b) A Register to be called "The Loaning Land Companies' Register," wherein shall be entered the names of such loaning land corporations as are from time to time entitled to registry, whose powers include the business of buying and selling land, but not that of a trustee, executor, administrator, guardian, liquidator, receiver or assignee;

Trust Com-
panies'
register.

(c) A Register to be called "The Trust Companies' Register," wherein shall be entered the names of such trust companies as are from time to time entitled to registry, whose powers include the business of a trustee, executor, administrator, guardian, liquidator, receiver or assignee, but do not include that of buying and selling land as beneficial owner, and, subject to subsection 3, do not exceed the powers which may be given to trust companies under this Act.

No corpora-
tion to be
registered on
more than
one register.

112. A corporation shall not be registered on more than one of such registers, nor transact or undertake business in Ontario other than the business for which it is registered.

Special Acts
as to trust
companies not
affected.

113. Nothing in this section shall diminish the powers conferred on any trust company by or under the authority of any other Act of Ontario, nor shall the possession of powers so conferred deter it from registry on the Trust Companies Register. 2 Geo. V. c. 34, s. 115.

Duties of
Registrar.

116.—(1) The duty of determining, distinguishing and registering those corporations which under this Act are required to be registered and are entitled to registry, and of granting registry accordingly, shall devolve upon the Registrar subject to appeal as hereinafter provided.

(2) For the purposes of his duties the Registrar may ^{Power to require evidence.} require to be made, or may take and receive affidavits or depositions, and may examine witnesses upon oath.

(3) The evidence and proceedings in any matter before the Registrar may be reported by a stenographer who has ^{Employment of stenographer.} taken an oath before the Registrar faithfully to report the same. 2 Geo V. c. 34, s. 116.

117. After the issue of Letters Patent to any corporation ^{Transfer of papers.} required or authorized to register under this Act, the Provincial Secretary shall transfer all papers in his Department connected with such company to the office of the Registrar. 2 Geo. V. c. 34, s. 117.

118.—(1) Applications for initial registry shall be made ^{Applications for initial registry.} according to a form to be supplied by the Registrar, and the applicant shall deliver to the Registrar the application duly completed, together with such evidence as the form requires.

(2) The applicant shall, if required, furnish such further ^{Material to be furnished.} information, material and evidence, and give such public notice of the application as the Registrar may direct.

(3) With the application the applicant shall file a state- ^{Financial statement to accompany application.} ment in such form as may be required by the Registrar, of the financial condition and affairs of the corporation on the 31st day of December next preceding, or up to the usual ^{What statement shall show.} balancing day of the corporation, if such balancing day is not more than twelve months before the filing of the statement, and the statement shall be signed and verified as prescribed by section 110. 2 Geo. V. c. 34, s. 118.

119.—(1) Where a corporation applying for registry has ^{Registration of extra provincial corporations.} its head office elsewhere than in Ontario the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario.

(2) The power of attorney shall be under the seal of the ^{Execution of power of attorney.} corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness who shall make oath as to the due execution thereof.

(3) The official positions in the corporation held by the ^{Authentication.} officers signing such power of attorney shall be verified by the oath of some person cognizant of the facts.

(4) The power of attorney shall declare at what place in ^{Contents of power of attorney.} Ontario the chief agency of the corporation is, or is to be established, and shall expressly authorize such agent or agents to receive service of process in all actions and proceedings against the corporation in Ontario for any liability incurred by the corporation therein, and also to receive from the Registrar all notices which the law requires to be given, or which it is thought advisable to give, and shall

declare that service of process for or in respect of such liability on either of such agents and receipt of such notices at such chief agency or personally by either of such agents shall be legal and binding on the corporation.

Filing of
power of
attorney.

(5) The power of attorney with the affidavit shall be filed with the Registrar.

Authority
conferred by
power of
attorney.

(6) The power of attorney may confer upon the agent or agents any further or other powers which the corporation may deem advisable.

Effect on
copy as
evidence.

(7) The production of a copy of such power of attorney certified by the Registrar shall be sufficient evidence for all purposes of the power and authority of the person or persons therein named to act on behalf of the corporation in the manner and for the purposes set forth in such certified copy.

When
changed.

(8) Whenever the corporation changes its agent or chief agency in Ontario it shall file with the Registrar a power of attorney, as hereinbefore provided, stating the change or changes and containing a similar declaration as to service of process and notices as hereinbefore provided.

Service of
process
thereafter.

(9) After the power of attorney is filed any process in any action or proceeding against the corporation for a liability incurred in Ontario may be validly served on the corporation at its chief agency; but nothing herein shall render invalid service in any other mode in which a corporation may be lawfully served.

Section to
apply not-
withstanding
special Act.

(10) This section shall apply notwithstanding any special or other legislation of Ontario affecting any registered corporation. 2 Geo. V. c. 34, s. 119.

Recording
registry;
entries on
register

120. (1) The Registrar shall cause to be entered on the proper register the name of every corporation which from time to time be or, in case of appeal, the Lieutenant-Governor in Council finds to be entitled to registry, together with the date of the commencement of the registry and the term for which the registry is to endure.

Term of
registry.

(2) The term shall begin from the date of such commencement and shall end not later than the 30th day of June then next ensuing.

Particulars
to be
entered.

(3) The Registrar shall also cause to be entered on the register the place where the head office and the chief agency, if any, are situate, and if there is a chief agency the name and address of the chief agent, and of the agent or agents appointed under the next preceding section.

Entering
suspension,
etc., of
registry.

(4) If the registry is suspended, revived, revoked, or cancelled, the date of and authority for such suspension, revivor, revocation or cancellation shall also be entered.

(5) The Registrar shall issue under his hand and seal of office to every registered corporation a certificate of registry, Issue of certificate of registry. setting forth that the corporation is entitled to registry as a *(describing the corporation)* under this Act, and that the corporation is accordingly registered for the term stated in the certificate.

(6) Every certificate of registry shall specify the first day and the last day of the term for which the corporation is registered; and the corporation so registered shall be deemed to be registered from the commencement of the first day to the end of the last day so specified. Commencement and end of term

(7) A certificate of registry which does not specify an earlier date of expiry shall, unless sooner suspended or cancelled, remain valid until the then next ensuing thirtieth day of June inclusive, when, if the corporation has complied with the law and continues solvent, it shall be entitled to a certificate of renewed registry, and so on every succeeding thirtieth day of June thereafter. Duration of registry.

(8) Notwithstanding failure to comply with the provisions of this Act within the prescribed time the Registrar may, upon payment of the prescribed fee, grant an interim certificate of registry or extend the currency of a subsisting certificate. 2 Geo. V. c. 34, s. 120. Interim certificate.

CORPORATE NAME: CHANGE OF NAME OR OF HEAD OFFICE.

121.—(1) No corporation shall be registered under a name identical with that under which any other existing corporation is registered, or under any other name likely, in the opinion of the Registrar, to deceive the public as to its identity. Restrictions upon use of names.

(2) No registered corporation shall be registered under a new or different name except upon proof that such new or different name is authorized by law. New names.

(3) Where a Provincial corporation is desirous of adopting a name different from that by which it was incorporated, or where, in the opinion of the Registrar, the name by which the corporation was incorporated may be easily confounded with that of another existing corporation, the Lieutenant-Governor in Council may change the name of the corporation to some other name to be stated in the Order in Council. Change of corporate name.

(4) No such change of name shall affect the rights or obligations of the corporation. Not to affect rights or obligations.

(5) The location of the head office of a corporation may be changed in like manner. Change of head office.

(6) Such public notice shall be given of any change of name or head office, and of any application for such change, in the *Ontario Gazette* and otherwise as the Registrar may direct. 2 Geo. V. c. 34, s. 121. Public notice.

CORPORATIONS ADMISSIBLE TO REGISTRY: REFUSAL, SUSPENSION, REVIVOR, CANCELLATION OF REGISTRY: APPEAL.

What
admissible
to registry

122.—(1) Corporations mentioned in section 115, which are solvent and fall within one of the following classes, may, upon due application, be admissible to registry:

Corporations
hereafter
constituted.

(a) Corporations hereafter duly constituted under the law of Ontario;

Certain
existing
corporations

(b) Corporations which being duly incorporated or constituted under the law of Ontario, or of any other Province of Canada, or of the Dominion of Canada, or of the United Kingdom, were in actual, active and *bona fide* operation in Ontario on the tenth day of February, 1897, but a corporation not being incorporated or constituted under the law of Ontario shall be admissible to registry only on due application and with the approval of the Minister and on such terms and conditions as he may prescribe;

Certain
existing
corporations.

(c) Corporations duly constituted as joint stock corporations under the law of any other Province of Canada, or of the Dominion of Canada, or of the United Kingdom, which issue only permanent shares and have a subscribed permanent stock of not less than \$500,000, whereof \$100,000 is paid in and unimpaired.

Corporations
incorporated
under the laws
of any other
country.

(2) A corporation incorporated under the laws of any other country may, upon due application, with the approval of the Minister, be admitted to registry on such terms and conditions as he may deem expedient.

Corporations

(3) Subject to section 143 no other corporation shall be registered. 2 Geo. V. c. 34, s. 122.

Suspension or
cancellation
of registry.

123.—(1) Upon proof that registry or a certificate of registry has been obtained by fraud or mistake, or that a corporation exists for an illegal purpose, or is insolvent, or has failed to pay its obligations, or has wilfully, and after notice from the Registrar, contravened any of the provisions of this Act, or of the Act or instrument incorporating the company, or of any law in force in Ontario, or has ceased to exist, the registry of the corporation may be suspended or cancelled by the Registrar.

Notice to
be given to
the corpora-
tion.

(2) On the suspension or cancellation of the registry of any existing corporation the Registrar shall cause notice in writing thereof to be delivered to the corporation.

Publication
in Gazette.

(3) Where the corporation has ceased to exist the notice shall be published in the *Ontario Gazette*.

(4) From and after such suspension or cancellation, or after termination of registry without renewal, the corporation shall, unless and until again registered, cease to trans-^{Corporation to cease business except for winding up purposes.}act or undertake business in Ontario, except so far as necessary for the winding up of its business; but any liability incurred by such corporation may be enforced against it as if such suspension, cancellation or termination had not taken place. 2 Geo. V. c. 34, s. 123.

124.—(1) Where in any disputed case the Registrar decides that a corporation is or is not legally entitled to registry, or to renewal of registry, or where he suspends, revives, or cancels the registry of a corporation, his decision, except as otherwise herein provided, shall be given in writing and he shall cause a copy thereof certified under his seal of office to be delivered to the corporation.^{Decision of Registrar to be in writing and to be delivered to corporation.}

(2) A certified copy of any such decision or of any certificate of registry may be had on application to the Registrar upon payment of the prescribed fee.^{Certificate of decision or of registry.}

(3) Affidavits and depositions received or taken by the Registrar shall be filed in his office. 2 Geo. V. c. 34, s. 124.^{Filing affidavits and depositions.}

125.—(1) An appeal shall lie to the Lieutenant-Governor in Council from any decision of the Registrar affecting the right of any corporation to register, or affecting the revivor of registration, or suspending or cancelling the registration of any corporation, and from any decision of the Registrar under section 120 or section 121, and by leave of the Lieutenant-Governor in Council from his decision in any other case.^{Appeal to the Lieutenant-Governor in Council.}

(2) Unless otherwise ordered by the Lieutenant-Governor in Council no appeal shall be allowed unless within thirty days after the decision appealed against has been made notice of appeal and of the reasons therefor is delivered to the Registrar.^{Notice of appeal and grounds.}

(3) The decision of the Lieutenant-Governor in Council shall be final and conclusive. 2 Geo. V. c. 34, s. 125 (1-3).^{Decision.}

126. The Registrar may at the request of the corporation, evidenced as he may direct, cancel its registry. 2 Geo. V. c. 34, s. 126.^{Cancellation of registry by request of corporation.}

NOTICE TO CORPORATION FOR THE PURPOSES OF THE ACT.

127. Delivery of any written notice or document to a corporation for any purpose of this Act, where the mode is not otherwise expressly provided, may be by letter delivered at the head or chief office of the corporation in Ontario or its chief agency therein, or sent by registered post addressed to the corporation, its manager or agent at such head or chief office or agency, or by delivering it personally to an authorized agent of the corporation. 2 Geo. V. c. 34, s. 127.^{Service of notices.}

UNREGISTERED CORPORATIONS AND ILLEGAL CONTRACTS.

No unregistered corporation to undertake business

128.—(1) No incorporated body or person acting in its behalf, other than a registered corporation, and a person duly authorized by it to act in its behalf shall undertake or transact the business of a loan corporation, or of a loaning land corporation, or of a trust company in Ontario.

Certain matters to be deemed undertaking business.

(2) Any setting up, or exhibiting of a sign or inscription containing the name of the corporation, or any distribution or publication of any proposal, circular, card, advertisement, printed form or like document in the name of the corporation, or any written or oral solicitation on the corporation's behalf, or any collecting or taking of money on account of shares or of loans or advances shall, both as to the corporation and as to the person acting or purporting to act on its behalf, be deemed undertaking the business of the corporation within the meaning of this section.

Penalty for unregistered corporation.

(3) Any promoter, organizer, manager, director, officer, collector, agent, employee, or person who undertakes or transacts any business of a corporation which is not registered under this Act shall be guilty of an offence. 2 Geo. V. c. 34, s. 128.

Penalty for using certain words in name of company while unregistered. Rev. Stat. 183.

129. Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under *The Ontario Insurance Act*, assuming or using in Ontario a name which includes any of the words "Loan," "Mortgage," "Trust," "Trusts," "Investment," or "Guarantee," in combination or connection with any of the words "Corporation," "Company," "Association" or "Society," or in combination or connection with any similar collective term, or assuming or using in Ontario any similar name, or any name or combination of names which is likely to deceive or mislead the public shall be guilty of an offence; and any person acting on behalf of such person, partnership, organization, society, association, company or corporation shall also be guilty of an offence; but where any of such combinations of words formed part of the corporate name of any corporation theretofore duly incorporated by or under the authority of an Act of Ontario or of the Parliament of Canada the combination may continue to be used in Ontario as part of the corporate name. 2 Geo. V. c. 34, s. 129.

Interpretation "Contract."

130.—(1) In this section:

"Contract" shall mean and include any contract, agreement, undertaking or promise

(a) To pay to or for the contract-holder any money or money's worth;

- (b) To sell, supply or procure any building or site or land or to bring about the purchase and sale or supply thereof; or
- (c) To construct or procure the construction of any house or building

made upon any consideration which includes an entrance or membership fee, or expense contribution, initial, renewal, periodical or recurrent, or which includes any periodical or recurrent contribution to a fund, or account, or source for, or intended or alleged to be for, the carrying out of such contract;

And "contract" shall further include any contract, ^{Interpretation extended.} agreement, undertaking, or promise, the benefit of which to the contract-holder paying any such consideration is to be wholly or partly postponed or deferred until other contract-holders have been provided for, or is to depend upon the number or the persistence of the other contract-holders, or upon the accession of new contract-holders, or upon the order or sequence of the contract.

(2) Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under *The Ontario Insurance Act*, undertaking or effecting, or offering to undertake or effect, any such contract shall be guilty of an offence; and any person acting on behalf of such person, partnership, organization, society, association, company or corporation, shall also be guilty of an offence, and the convicting Magistrate or Justices, in addition to imposing the prescribed penalty, may at the time of conviction or thereafter make such ^{Prohibition of certain contracts. Rev. Stat. c. 183.} order for the restitution of the money which was unlawfully taken as to him or them shall seem just; and in default of compliance with such order the offender shall be liable to ^{Order for restitution.} imprisonment for a term not exceeding twelve months. ^{Penalty for non-compliance. 2 Geo.} V. c. 34, s. 130.

131. Where in any case arising under any of the next preceding three sections it is found by the Magistrate or Justices that the person, partnership, organization, society, company or corporation charged or his or its agent is exhibiting or using any sign, inscription or name, or distributing, using or publishing any document, including any proposal, circular, card, advertisement, notice, application, contract or printed form which, in the opinion of the Magistrate or Justices, induces, or tends to induce, a violation of any of such sections, or is likely to deceive or mislead the public either as to the party or the status of the party undertaking the contract, or as to the nature, terms or effect of the contract, the Magistrate or Justices may summarily order the discontinuance of ^{Use of sign, name or document inducing illegal contract.}

Order for discontinuance.

such sign, inscription, name or document; and non-compliance with such order shall be an offence. 2 Geo. V. c. 34, s. 131.

OFFENCES AND PROSECUTIONS.

Offences for which no special penalty provided.

132. — (1) For every contravention of this Act, which is declared to be an offence and for which no other penalty is provided, the offender shall, for the first offence, incur a penalty of not less than \$20 and not more than \$200, and for any subsequent offence of the same kind shall be liable to imprisonment for any term not less than three months and not more than twelve months, or in the case of an organization, society, association, company or corporation to a penalty not exceeding \$1,000.

Prosecutions.

Rev. Stat. c. 93.

(2) The prosecution shall be before a Police Magistrate or two Justices of the Peace, and, except as herein otherwise provided, the provisions of *The Ontario Summary Convictions Act* shall apply.

Limitations of prosecutions.

(3) The information or complaint shall be laid or made in writing within one year after the commission of the offence. 2 Geo. V. c. 34, s. 132.

Security upon appeal from conviction.

133. Every person convicted under this Act who gives notice of appeal against the conviction shall before proceeding with the appeal give security to the satisfaction of the Magistrate or Justices to appear personally at the Court and to prosecute such appeal, and to abide by the judgment of the Court thereupon, and to pay such costs as may be awarded, and if a pecuniary penalty is imposed to pay the same if the conviction is affirmed. 2 Geo. V. c. 33, s. 133.

Informant: application of fine.

134. — (1) One half of any penalty imposed under the authority of this Act shall belong to His Majesty, for the use of Ontario, and the other half shall belong to the prosecutor.

Burden of proof of registry.

(2) In every action for a penalty or prosecution for an offence against this Act, the burden of proving registry shall be upon the person, partnership, organization, society, association, company or corporation charged. 2 Geo. V. c. 34, s. 134.

VERIFICATION OF ANNUAL STATEMENTS MADE TO REGISTRAR; SPECIAL AUDIT.

Registrar to have access to corporation books, etc.

135. — (1) The Registrar or any person authorized under his hand and seal shall, with the approval of the Minister, have at any time within reasonable business hours of every day except holidays access to the books, vouchers, securities and documents of a corporation, and any officer or person in charge, possession, custody or control of such books, vouchers, securities or documents refusing or neglecting to afford such access shall be guilty of an offence, and the corporation, if registered, shall be liable to have its registry suspended.

(2) The corporation, on continued refusal or neglect to afford such access, shall be liable to have its registry cancelled or not renewed after termination of the current certificate.

Cancellation of registry for refusing access.

(3) Where a corporation is three months in default in the delivery of the financial statement required by section 110 or upon proof that its accounts have been materially and wilfully falsified, or that for eighteen consecutive months there has been no *bona fide* audit of the books and accounts; or where there is filed with the Registrar a requisition for audit bearing the signatures, addresses and occupations of at least twenty-five shareholders of the corporation, holding shares upon which not less than \$10,000 has been paid in, and alleging to the satisfaction of the Registrar specific fraudulent or illegal acts, or repudiation of contracts, or insolvency, and accompanied by a deposit of \$300 or such less sum as the Registrar may fix as security to cover the costs of the audit, the Registrar may nominate a competent accountant who shall under his direction make a special audit of the corporation's books, accounts and securities, and make to him a written report thereupon verified upon oath.

Special audit in case of fraud, illegal acts or default of audit or financial statement.

(4) A special auditor so appointed shall be sufficiently accredited if he delivers to the secretary or to any managing officer of the corporation a written statement under the hand and seal of the Registrar to the effect that the Registrar has nominated him to audit the books, accounts and securities of the corporation.

Credentials of auditor.

(5) The expense of such special audit shall be borne by the corporation, and the auditor's account therefor when approved in writing by the Registrar shall be conclusive and shall be payable forthwith.

Expenses of special audit.

(6) Where the facts alleged in the requisition appear to the Registrar to have been partly or wholly disproved by the audit, and he deems it just, he may pay the costs of the audit partly or wholly out of the deposit.

Payment of costs out of deposit.

(7) The deposit or the balance, if any, remaining after payment of such costs shall be returned to the requisitioning shareholders upon the order of the Registrar.

Return of balance of deposit.

(8) Where a corporation, by its officer, employee, servant or agent having in his custody, possession or power the funds, books, vouchers, securities, or documents of the corporation, refuses to have the same duly audited, as provided by section 102, or by this section or by section 136, or obstructs an auditor or examiner in the performance of his duties, the Registrar, upon proof of the fact, may suspend or cancel the registry of the corporation, or may terminate the registry after the expiry of the current certificate of registry.

Where corporation resists or obstructs audit.

Report of
special
auditor.

(9) If the report of the special auditor appears to the Registrar to disclose fraudulent or illegal acts on the part of the corporation, or a repudiation of its contracts, or its insolvency, he shall notify the corporation accordingly and furnish it with a copy of the report, allowing two weeks for a statement in reply to be filed with him.

Registrar's
decision.

(10) Upon consideration of the report and of the corporation's statement in reply, and of such further evidence, documentary or oral as he may require, the Registrar shall render his decision in writing, and may thereby continue or terminate, or suspend or cancel the registry of the corporation. 2 Geo. V. c. 34, s. 135.

Appointment
of examiner
by Attorney-
General.

135. — (1) The Attorney-General, of his own motion or upon an application being made to him in writing, may appoint some competent person to make a special examination and audit of the corporation's books, accounts and securities, and to enquire into the conduct of the business of the corporation generally.

Order
upon which
enquiry is to be
ordered.

(2) The application shall be supported by such evidence as the Attorney-General may require for the purpose of showing that there is good reason for requiring such investigation to be made, and that it is not prompted by malicious motives.

Security
for costs.

(3) The Attorney-General may require security for the payment of the costs of the enquiry to be given before appointing the examiner.

Powers of
examiner.
To summon
witnesses,
&c.

Part III c. 18

(4) The examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and enquiry, shall have the like powers as may be conferred on a commissioner appointed under *The Public Inquiries Act*.

Report to
Attorney-
General.

(5) Upon the conclusion of such examination, audit and enquiry the examiner shall make his report in writing to the Attorney-General. 2 Geo. V. c. 34, s. 136.

Refusal to
obey, &c.
&c.

137. Every director, manager, auditor, officer, agent, collector, servant, or employee of the corporation who refuses or neglects to make any proper entry in any book of record, entry or account of the corporation, or to exhibit the same, or to allow the same to be inspected or audited, either for the general purposes of the corporation or for the purposes of this Act and extracts to be taken therefrom shall be guilty of an offence. 2 Geo. V. c. 34, s. 137.

Evidence:
prima facie.

138. — (1) A notice published in the *Ontario Gazette* over the name of the Registrar or Assistant Registrar shall, without further proof, be *prima facie* evidence of the facts set forth in such published notice.

(2) All copies of returns, reports or other official publications of the Registrar purporting to be printed by the King's Printer, or to be printed by order of the Assembly, shall, without further proof, be admitted as evidence of such publication and printing and as true copies of the originals. Official publications.

(3) A certificate under the hand of the Registrar or Assistant Registrar and the Registrar's seal of office, that on a stated day the corporation mentioned therein was or was not registered, or that the registry of any corporation was originally granted, or was renewed, suspended, revived or cancelled, on a stated day, shall be *prima facie* evidence of the facts stated in the certificate. Certificate as to registry.

(4) Copies of, or extracts from, any book, record, instrument or document in the office of the Registrar or of or from any official instrument or document issued under this Act shall, if certified by him or by the Assistant Registrar to be true copies or extracts and sealed with the Registrar's seal of office, be held as authentic and shall be *prima facie* evidence of the same legal effect as the original. 2 Geo. V. c. 34, s. 138. Copies of or extracts from official documents.

139.—(1) In any action or proceeding against a corporation the books mentioned in section 100 shall be *prima facie* evidence of the facts purported to be thereby stated. Books as evidence.

(2) The books of a corporation shall be *prima facie* evidence of the truth of all matters purporting to be therein recorded as between the corporation and its shareholders, and as between its shareholders. 2 Geo. V. c. 34, s. 139. Idem.

FEEs.

140.—(1) Until otherwise prescribed by the Lieutenant-Governor in Council the fees for Letters Patent of incorporation under this Act shall be as mentioned in Schedule A. Fees for incorporation.

(2) Until otherwise prescribed by the Lieutenant-Governor in Council the fees set out in Schedule B. shall be payable in respect of the matters therein mentioned. Other fees.

(3) The fees shall be payable to the Registrar. Payment to Registrar.

(4) Where a corporation proves to the satisfaction of the Registrar that it is discontinuing business in Ontario, and has given such public notice of intended discontinuance as shall be required, the fee for registry or renewal of registry, as the case may be, may, on the certificate of the Registrar, be commuted to one-fourth of the prescribed fee; but registry at such commuted fee shall not be granted for more than four years in all, unless for cause shown to the satisfaction of the Registrar, in which case registry may be granted year by year for an additional number of years. See 2 Geo. V. c. 34, s. 140. Commutation on proposed discontinuance of business.

Time of
payment.

141. In the case of an application or other document or instrument to be filed, examined or deposited, the fee shall be paid before the application or other document or instrument is dealt with; in the case of registry or certificates of registry the fee shall be paid before the corporation is registered. 2 Geo. V. c. 34, s. 141.

Application
of certain
sections of
Rev. Stat.
c. 178.

142. Except where the provisions of this Act are inconsistent with them, sections 27, 49, 51, 54, 55, 56, 59, 60, 61, 73, 75, subsection 1 of section 95 and section 98 and Part XIII of *The Ontario Companies Act* shall apply, substituting for the words "Provincial Secretary," in subsection 1 of section 95 and Part XIII., the word "Registrar." 2 Geo. V. c. 34, s. 142; 3-4 Geo. V. c. 18, s. 35 (2).

SAVING AS TO TERMINATING SHARES ISSUED BEFORE 16TH APRIL, 1912.

Saving as
to law
applicable
to terminat-
ing shares.

143. Notwithstanding the repeal of certain Acts and parts of Acts by section 143 of *The Loan and Trust Corporations' Act*, passed in the 2nd year of His Majesty's reign chaptered 34, the law of Ontario which, on the sixteenth day of April, 1912, was in force and applied to corporations having terminating or withdrawable stock or shares, shall continue in force and shall apply to such corporations so long as such stock or shares subsist.

SCHEDULE OF FEES.

Approved by Order in Council, 25th May, 1913.

SCHEDULE "A."

Fee for Letters Patent of Incorporation or for Order in Council increasing Capital Stock, under the Loan and Trust Corporations Act:

(a) \$300,000 but less than \$500,000.....	\$200 00
(b) \$500,000 but less than \$1,000,000.....	250 00
(c) \$1,000,000 and \$25 for each additional \$100,000.....	350 00
(d) Supplementary Letters Patent.....	50 00

SCHEDULE "B."

1. Application for initial registry (s. 118).....	\$ 5 00
2. Extension of time for making application or for delivering any document required by this Act.....	2 00
3. Filing power of Attorney in case of corporations mentioned in section 119.....	5 00
4. Filing new power or change of Attorney (s. 119).....	5 00
5. Initial registry Loan or Loaning Land Corporations.....	100 00
6. Initial Registry Trust Companies.....	150 00

7. Certificate of renewed registry (s. 120):

(a) Where the assets of the Corporation amount to not more than \$250,000.....	\$ 35 00
(b) Where the assets of the corporation exceed \$250,000 but do not exceed \$500,000.....	50 00
(c) Where the assets of the Corporation exceed \$500,000 but do not exceed \$1,000,000.....	75 00
(d) Where the assets of the corporation exceed \$1,000,000 but do not exceed \$1,500,000.....	100 00
(e) Where the assets of the corporation exceed \$1,500,000 but do not exceed \$2,000,000.....	125 00
(f) Where the assets of the corporation exceed \$2,000,000 but do not exceed \$2,500,000.....	150 00
(g) Where the assets of the Corporation exceed \$2,500,000 but do not exceed \$3,000,000	175 00
(h) Where the assets of the corporation exceed \$3,000,000 but do not exceed \$5,000,000.....	200 00
(i) Where the assets of the corporation exceed \$5,000,000 but do not exceed \$10,000,000.....	250 00
(j) Where the assets of the corporation exceed \$10,000,000	300 00

For purposes of this article, capital stock uncalled shall not be deemed an asset.

8. Interim certificate of registry or extension of certificate (s. 120) 5 00

9. Revivor of registry after suspension (s. 120):

For a corporation within article 7 (a).....	10 00
For a corporation within article 7 (b).....	15 00
For a corporation within article 7 (c).....	20 00
For a corporation within article 7 (d).....	25 00
For a corporation within article 7 (e).....	30 00

10. Change of corporate name (s. 121)..... 25 00

11. Change of head Office (s. 121)..... 25 00

12. Filing Annual Statement (s. 110)..... 5 00

13. Filing new By-laws or amendments thereto after initial registry (s. 79)..... 2 00

14. Application for increase, decrease, conversion or alteration of capital stock or shares or declaration or alteration of powers 10 00

15. Certificate of decrease, conversion or alteration of capital stock or shares or declaration or alteration of powers 150 00

16. Copy of decision of registrar, per folio of 100 words..... 10
Also for certificate of Registrar..... 1 00

17. Certified copy of entry on Register or of certificate... 1 00

18. Copies of or extracts from documents filed with Registrar per folio of 100 words..... 10
Also for certificate of Registrar..... 1 0019. Examining and passing upon applications or documents under section 50 to 59..... 25 00
Order in Council and certificate..... 200 0020. Examining and passing upon applications or documents under 1 Geo. V. c. 26, s. 28..... 25 00
Order in Council 100 00

CHAPTER 185.

An Act respecting Railways.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

SHORT TITLE.

Short title. 1. This Act may be cited as *The Ontario Railway Act*.
3-4 Geo. V. c. 36, s. 1.

INTERPRETATION.

Interpreta-
tion of
words.

2. In this Act, and in any special Act, in so far as this Act applies thereto,—

"Board."

(a) "Board" shall mean The Ontario Railway and Municipal Board;

"By-law."

(b) "By-law," when referring to an act of the company, shall include a resolution;

"Company."

(c) "Company" shall mean a railway, street railway or incline railway company, and shall include every such company and any person or municipal corporation having authority to construct or operate a railway or street railway or incline railway;

"Costs."

(d) "Costs" shall include fees, counsel fees, and expenses;

"County."

(e) "County" shall include district;

"Express
toll."

f) "Express toll" shall mean any toll, rate or charge to be charged by the company, or any person or corporation other than the company, to any persons, for hire or otherwise, for or in connection with the collecting, receiving, caring for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, or for any service incidental thereto, or for or in connection with any or either of these objects where the whole or any portion of the carriage or transportation of such goods is by rail upon the railway of the company;

- (g) "Goods" shall include personal property of every "Goods." description that may be conveyed upon the railway, or upon steam or other vessels connected with the railway;
- (h) "Highway" shall include a public road, street, "Highway." lane, or other public way or communication;
- (i) "Inspecting engineer" shall mean an engineer "Inspecting engineer." who is directed by the Board to examine a railway or works, and shall include two or more engineers when two or more are so directed;
- (j) "Judge" shall mean a Judge of the High Court "Judge." Division, or of a County or District Court, as the case may be;
- (k) "Land" shall mean the land, the acquiring, tak- "Land." ing, or using of which is authorized by this or by the special Act, and shall include real estate and an easement over or privilege in respect of, and any interest in land;
- (l) "Lease" shall include an agreement for a lease; "Lease."
- (m) "Owner," where, under this Act or the special "Owner." Act, any notice is required to be given to the owner of land, or where any act is authorized or required to be done with the consent of the owner, shall mean the person who, under this Act or the special Act, or any Act incorporated therewith, is enabled to sell and convey the land to the company, and shall include a mortgagee of the land;
- (n) "Plan" shall mean a ground plan of the land "Plan." and property taken or intended to be taken;
- (o) "Railway" shall mean any railway which the "Railway." company has authority to construct or operate, and shall include all branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, property, real or personal, and works connected therewith, and also any railway bridge, tunnel, or other structure which the company is authorized to construct;
- (p) "Registrar of deeds" or "Registrar" shall in- "Registrar." clude the master of titles, or local master of titles, or other officer with whom the title to the land is registered;
- (q) "Registry office" or other words descriptive of "Registry Office." the office of the registrar of deeds, shall include the land titles office or other office in which the title to the land is registered;

"Rolling
stock"

(r) "Rolling stock" shall mean and include any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels over or upon the rails or tracks of the company;

(s) "Secretary" shall mean the secretary of the Board;

(t) "Special Act" shall mean any Act authorizing the construction of or otherwise specially relating to a railway or street railway, whether operated by steam, electricity or other motive power, and with which this Act is incorporated;

"Street Rail-
way."

(u) "Street railway" shall mean a railway constructed or operated along and upon a highway under an agreement with or by-law of a city or town, although it may at some point or points deviate from the highway to a right of way owned by the company, under the powers conferred by section 243, and shall include all portions of the railway within the city or town and for a distance of not more than one and one-half miles beyond the limits thereof, although such one and a half miles may be constructed under a by-law of or agreement with a municipal corporation other than that of such city or town, and shall also include any part of an electric railway which lies within the limits of a city or town and is constructed or operated along and upon a highway;

"Toll" and
"rate."

(v) "Toll" or "Rate" shall mean and include any toll, rate, charge or allowance charged or made either by the company, or upon or in respect of a railway owned or operated by the company, or by any person on behalf or under authority or consent of the company, in connection with the carriage and transportation of passengers, or the carriage, shipment, transportation, care, handling or delivery of goods, or for any service incidental to the business of a carrier; and shall include also any toll, rate, charge or allowance so charged or made in connection with rolling stock, or the use thereof, or any instrumentality or facility of carriage, shipment or transportation, irrespective of ownership or of any contract, express or implied, with respect to the use thereof; and shall include also any toll, rate, charge or allowance so charged or made for furnishing passengers with beds or berths upon sleeping-cars, or for the collection, receipt, loading, unloading, stopping over, elevation, ventilation, refrigerating, icing,

heating, switching, ferriage, cartage, storage, care, handling or delivery of or in respect of goods transported, or in transit, or to be transported; and shall include also any toll, rate, charge or allowance so charged or made for the warehousing of goods, wharfage or demurrage or the like, or so charged or made in connection with any one or more of the above-mentioned objects separately or conjointly;

- (w) "Traffic" shall mean the traffic of passengers, "Traffic." goods and rolling stock;
- (x) "Train" shall include any engine, motor car or "Train." other rolling stock;
- (y) "Undertaking" shall mean the railway and "Under- works of every description which the company taking." has authority to construct or operate;
- (z) "Working expenditure" shall mean and include "Working expendi- ture."
 - (i) all expenses of maintenance of the railway;
 - (ii) all such tolls, rents or annual sums as are paid in respect of the hire of rolling stock, let to the company, or in respect of property leased to or held by the company, apart from the rent of any leased line;
 - (iii) all rent charges or interest on the purchase money of land belonging to the company purchased but not paid for or not fully paid for;
 - (iv) all expenses of or incidental to working the railway, and the traffic thereon, including all necessary repairs and supplies to rolling stock while on the lines of another company;
 - (v) all rates, taxes and insurance and compensation for accidents or losses;
 - (vi) all sums payable, under any Act of this Legislature, to workmen as compensation for injuries sustained or industrial diseases contracted in the course of their employment;
 - (vii) all salaries and wages of persons employed in and about the working of the railway and traffic;
 - (viii) all office and management expenses, including directors' fees, and agency, legal, and other like expenses;

- (ix) all costs and expenses of and incidental to the compliance by the company with any order of the Board; and
- (x) generally, all such charges, if any, not hereinbefore otherwise specified, as in all cases of English railway companies are usually carried to the debit of revenue as distinguished from capital account. 3-4 Geo. V. c. 36, s. 2.

APPLICATION OF ACT.

Application
of Act

3. This Act shall, unless otherwise expressed, apply to all railways, other than Government railways, and when so expressed, and not otherwise, to street railways and incline railways howsoever incorporated, and whether operated by steam, electricity or other motive power, and whether constructed on highways or on lands owned by the company or partly on highways and partly on such lands, and shall be deemed to be incorporated and shall be construed, as one Act, with the special Act, subject as herein provided. 3-4 Geo. V. c. 36, s. 3.

Application of
tolls and
tariff pro-
visions to
traffic by
water.

4. (1) The provisions of this Act in respect of tolls, tariffs and joint tariffs shall, so far as they are applicable, extend to the traffic carried by any company by water, between any ports or places in Ontario, if the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic by water between any such ports or places.

Provisions
as to tolls

(2) The provisions of this Act in respect of tolls shall, in so far as they are applicable, extend and apply to

to apply
to bridge
or tunnel
company.

(a) any company which has power under any special Act to construct, maintain and operate any bridge or tunnel for railway purposes, or for railway and traffic purposes, and to charge tolls for traffic carried over, upon or through such structure by any railway; and

and to
traffic.

(b) the traffic so carried over, upon or through such structure. 3-4 Geo. V. c. 36, s. 4.

Exceptions,
qualifications,
etc., in
Special Act.

5. Any section of this Act may, by the special Act, be exempted from incorporation therewith, or may thereby be extended, limited or qualified, and it shall be sufficient, for the purposes of this section, to refer to any section of this Act by its number merely. 3-4 Geo. V. c. 36, s. 5.

As to ex-
ceptions,
etc., previous
to this Act.

6. If in any special Act heretofore passed, it is enacted that any provision of *The Railway Act of Ontario*, *The Electric Railway Act*, *The Street Railway Act* or *The*

Ontario Railway Act, 1906, in force at the time of the passing of such special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such special Act, extended, limited or qualified, the corresponding provision of this Act shall be taken to be excepted, extended, limited or qualified in like manner; and, unless otherwise expressly provided in this Act or the special Act, this Act shall apply to every railway company incorporated under a special Act or any general Act, and the sections expressly made applicable shall apply to every street railway company so incorporated, but where the provisions of the special Act and the provisions of this Act are inconsistent the special Act shall be taken to over-ride the provisions of this Act so far as is necessary to give effect to such special Act. 3-4 Geo. V. c. 36, s. 6.

R. S. O. 1897.
c.c. 207, 208,
209: 6 Edw. VII.
c. 30.

Conflict
between
this Act
and special
Act.

7.—(1) Sections 8 to 52, 54 to 59, 66 to 68, 98, 104, 106, 110, 111, 129, 143, 147, 148, 154, 156, 162, 163 to 172, 175, 176, 210, 226, 227, 264 to 266, 272 to 280, 284 to 299, 301, 302, shall apply to street railway companies.

What sec-
tions to
apply to
street
railway
companies.

(2) Sections 8 to 52, 54 to 59, 98, 104, 110, 111, 129, 143, 147, 162, 177, 219, 236 to 238, 240, 257, 264 to 266, 272 to 280, 284 to 299 and 302, shall apply to incline railways. 3-4 Geo. V. c. 36, s. 7.

or to in-
cline rail-
ways.

ORGANIZATION OF THE COMPANY.

Offices.

8. The head office of the company shall be at the place designated in the special Act, but the company may, by by-law, from time to time, change the location of its head office to any place in Ontario, notice whereof shall be given to the secretary of the Board who shall keep a register for the purpose of recording all changes so notified. 3-4 Geo. V. c. 36, s. 8.

Head office.

Change of
location.

Provisional Directors.

9.—(1) The persons mentioned by name as such in the special Act shall be the provisional directors of the company, and a majority of them shall be a quorum, and they shall hold office as such until the first election of directors, and may forthwith open stock books and procure subscriptions for shares, and receive payments on account thereof, and make calls upon subscribers in respect of their shares, and sue for and recover the same, and receive for the company any grant, loan, bonus or gift made to it or in aid of the undertaking, and enter into any agreement, authorized by this Act or by the special Act, with the person or corporation making such grant, loan, bonus or gift respecting the condition or disposition thereof, and cause plans and surveys to be made, and shall deposit in a chartered bank of Canada, having an office in Ontario, all money received by them, which

Provisional
directors.

Quorum.

Powers.

Deposit of
money.

shall not be withdrawn, except for the purposes of the undertaking, or upon the dissolution of the company.

Changes in
board of
provisional
directors.

(2) The provisional directors may add to their number, or substitute for any member, whether named in the special Act, or by the said provisional directors, who may desire to resign or withdraw, any other person as a provisional director.

Power of
exclusion.

(3) If more than the whole stock has been subscribed the provisional directors shall allocate and apportion the authorized stock among the subscribers as they deem most advantageous and conducive to the furtherance of the undertaking; and in such allocation and apportionment they may exclude any one or more of the subscribers, if, in their judgment, such exclusion will best secure the building of the railway.

Meetings.

(4) All meetings of the provisional directors shall be held at the head office of the company or at such other place in Ontario as may, in their opinion, best suit the interests of the company.

When sub-
scription for
stock to be
binding.

(5) No subscription for shares shall be binding on the company unless approved by resolution of the provisional directors or of the directors, nor unless ten per centum of the amount subscribed has been actually paid within one month after subscription. 3-4 Geo. V. c. 36, s. 9.

Capital.

Capital stock
and shares.

(1) The capital stock of the company, the amount of which shall be stated in the special Act, shall be divided into shares of \$100 each: and the money so raised shall be applied, in the first place, to the payment of all fees, expenses and disbursements for procuring the passing of the special Act, and for making the surveys, plans and estimates of the works authorized by the special Act; and the remainder of such money shall be applied to the making, equipping, completing and maintaining of the railway and other purposes of the undertaking.

Application
of proceeds.

Calling first
meeting for
election of
directors.

(2) So soon as twenty-five per centum of the capital stock is subscribed and ten per centum paid thereon into a chartered bank of Canada, having an office in Ontario, to the credit of the company, the provisional directors, or a majority of them, shall call a general meeting of the shareholders for the purpose of electing directors of the company, giving at least four weeks' notice by advertisement in the *Ontario Gazette*, and in at least one newspaper published in the place where the head office is situate, of the time, place and purpose of the meeting.

Notice.

When sub-
scribers may
call first
general
meeting.

(3) If the provisional directors neglect to call such meeting, for three months after twenty-five per centum of the capital stock shall have been subscribed and ten per centum thereof paid up, the same may be called by any five of the

subscribers who have so paid up ten per centum and who collectively have subscribed for not less than twenty-five shares of the capital stock and who have paid up all calls thereon.

(4) At such general meeting the shareholders present, either in person or by proxy, who shall at the opening of such meeting have paid up ten per centum on the shares subscribed by them, shall elect directors, in manner and qualified as hereinafter mentioned, who shall constitute the board of directors and shall hold office until the next general annual meeting. 3-4 Geo. V. c. 36, s. 10. First election of directors.

11.—(1) The capital stock of the company may, with the approval of the Board, be increased, from time to time, to any amount, if Increase of capital stock.

(a) such increase is sanctioned by a vote, in person or by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called by the directors for that purpose; and Approval by shareholders.

(b) the proceedings of such meeting have been entered in the minutes of the proceedings of the company. Entry of proceedings in minutes.

(2) Notice in writing, stating the time, place and object of such meeting, and the amount of the proposed increase, shall be given to each shareholder, at least twenty days previously to such meeting, by delivering the notice to the shareholder personally, or depositing the same in the post office, post paid and properly directed to the shareholder. Notice of meeting and object.

(3) Such fees as may be prescribed in the case of other companies shall be payable in respect of applications to the Board for its approval of the increase of the capital stock of the company. 3-4 Geo. V. c. 36, s. 11. Fees on such applications.

General Meetings.

12.—(1) A general meeting of the shareholders for the election of directors and for the transaction of other business connected with or incident to the undertaking, to be called "the annual meeting," shall be held annually on the day mentioned in the special Act, or on such day as may be fixed for that purpose by the by-laws of the company; and other general meetings, to be called "special meetings," may be called at any time by the directors, or by shareholders representing at least one-fourth in value of the subscribed stock, if the directors, having been requested by such shareholders to convene such special meeting, for twentyone days thereafter fail to call such meeting. Annual meetings.

(2) The annual meetings shall be held at the head office of the company. Place of annual.

(3) Special general meetings may be held at such places in Ontario and at such times and in such manner and for such purposes as may be provided by the by-laws of the company. 3-4 Geo. V. c. 36, s. 12.

Notice of meetings.

13.—(1) Two weeks' notice of any meeting of the shareholders shall be given by advertisement once in each week for two successive weeks in at least one newspaper published in the place where the head office is situate.

Contents.

(2) The notice shall specify the place and the day and the hour of the meeting; and a copy of the newspaper containing

Evidence.

the notice shall be evidence of the publication. 3-4 Geo. V. c. 36, s. 13.

What business may be transacted.

14.—(1) Any business connected with or incident to the undertaking may be transacted at an annual meeting, excepting such business as by this Act is required to be transacted at a special meeting; but no special meeting shall enter upon any business not set forth in the notice by which it is convened.

Votes according to shares.

(2) At any meeting of the shareholders every shareholder shall be entitled to as many votes as he holds shares in the company upon which all calls due have been paid.

Privilege to vote by proxy.

(3) Every shareholder may vote by proxy if such proxy produces from his constituent an appointment in writing in the words or to the effect following,—

Form of proxy.

I, _____, of _____, one of the shareholders of the _____, do hereby appoint _____ of _____, to be my proxy, and in my absence to vote for me or give my assent to any business, matter or thing relating to the undertaking of the _____ that is mentioned or proposed at any meeting of the shareholders of the company, in such manner as he thinks proper.

In witness whereof, I have hereunto set my hand and seal, the _____ day of _____, 19____.

Qualification of proxy.

(4) A vote by proxy shall be as valid as if the constituent had voted in person, but no person shall be qualified to be appointed a proxy who is not himself a shareholder; and every matter or thing proposed or considered at any meeting of the shareholders shall be determined by the majority of votes, and all decisions and acts of any such majority shall bind the company and be deemed the decisions and acts of the company. 3-4 Geo. V. c. 36, s. 14.

Majority to govern.

Evidence of minutes, etc.

15. A copy of the minutes of proceedings and resolutions of the shareholders of the company at any annual or special meeting, or of the minutes of proceedings and resolutions of the directors at their meetings, extracted from the minute book, kept by the secretary of the company, and by him certified to be a true copy extracted from such minute book and purporting to be sealed with the company's seal

shall, without proof of the signature of such secretary, be evidence of such proceedings and resolutions. 3-4 Geo. V. c. 36, s. 15.

16. All notices given by the secretary of the company by order of the directors shall be deemed notices by the directors of the company. 3-4 Geo. V. c. 36, s. 16. Effect of notices by secretary.

Powers and Duties of Directors.

17.—(1) A board of directors of the company to manage its affairs, the number of whom shall be stated in the special Act, and a majority of whom shall form a quorum, shall be chosen at the annual meeting, and if such election is not held on the day appointed therefor the directors shall cause such election to be held at a special meeting duly called for that purpose within as short a time as possible after the day so appointed. Election of board of directors. Time.

(2) No person shall be admitted to vote at such special meeting unless he would have been entitled to vote had the election been held on the day on which it ought to have been held. Who entitled to vote.

(3) Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws. Vacancies.

(4) No person shall be a director unless he is a shareholder, owning at least ten shares absolutely in his own right, and qualified to vote for directors at the election at which he is chosen. Qualification of directors.

(5) If the company has received aid towards the construction of its railway or undertaking, or any part thereof, from the Government of Ontario, under any Act of this Legislature, a majority of its directors shall be British subjects. When majority to be British subjects.

(6) The directors appointed at the last election or those appointed in their stead, in case of vacancy, shall remain in office until the next ensuing election of directors. Term of office of directors.

(7). So long as a quorum of directors remains in office vacancies in the board may be filled by such directors as remain in office. When directors may fill vacancies.

(8) Whenever there is not a quorum of directors in office it shall be the duty of the remaining directors or director forthwith to call a meeting of the shareholders to fill the vacancies, and in default the meeting may be called by any shareholder. When no quorum.

(9) If there are no directors remaining in office a meeting to elect directors may be called without service of any requisition. When no directors.

(10) The directors shall, at their first or at some other meeting after the election, elect one of their number to be the President.

Vice-
President.

president of the company who shall, when present, be the chairman at all meetings of the directors, and shall hold his office until he ceases to be a director, or until another president has been elected in his stead; and they may in like manner elect a vice-president who shall act as chairman in the absence of the president.

Powers of
quorum.

(11) The directors, at any meeting at which not less than a quorum are present, shall be competent to use and exercise all and any of the powers vested in the directors.

Powers of
majority
of quorum.

(12) The act of a majority of a quorum of the directors present at any meeting regularly held shall be deemed the act of the directors.

Casting vote.

(13) No director shall have more than one vote at any meeting, except the chairman, who shall, in case of a division of equal numbers, have the casting vote. 3-4 Geo. V. c. 36, s. 17.

Submission
of directors
to control
of share
holders and
to by-laws.

18. The directors shall be subject to the control of the shareholders at their annual meetings, and to all by-laws of the company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the special Act. 3-4 Geo. V. c. 36, s. 18.

Contractors
with com-
pany not
to be
directors.

19.—(1) No person concerned or interested in any contract under or with the company, or being surety for any contractor, shall be capable of being chosen a director, or of holding or continuing in the office of director or provisional director, nor shall any person being a director or provisional director or promoter of the company enter into or be directly or indirectly interested or concerned in or participate in the profit of any contract with the company, not relating to the purchase of land necessary for the railway, or be or become a partner of any contractor with the company.

Liability of
person
offending.

(2) If any such contract is made by or on behalf of any director or provisional director or promoter an action shall lie against him at the suit of any shareholder or of the corporation of any municipality through which any part of the railway passes, for the benefit of the funds of the company, for the whole amount of profit accruing to such director, provisional director or promoter from the contract. 3-4 Geo. V. c. 36, s. 19.

Power of
directors to
make
regulations.

20.—(1) The directors may make rules, regulations and by-laws, not inconsistent with this Act, for the management and disposition of the shares, property, business and affairs of the company, and for the appointment of all officers, servants and artificers, and for prescribing their duties and salaries.

(2) The directors may also employ and pay one of their ^{Manager.} number as managing director. 3-4 Geo. V. c. 36, s. 20.

21. The directors may appoint such officers as they deem ^{Appointment} requisite, and shall take sufficient security from the manager ^{of officers.} and officers for the safe keeping and accounting by them of the money raised by virtue of this Act and the special Act, and for the faithful execution of their offices. 3-4 Geo. V. c. 36, s. 21.

22. The directors may by by-law or resolution provide for ^{Retirement} the retirement of any of the company's officers and servants, ^{of officers,} on such terms as to an annual allowance or otherwise, as ^{etc.} the directors, in the interest of the company's service and under the circumstances, consider just and reasonable. 3-4 Geo. V. c. 36, s. 22.

23. The directors may be paid such reasonable remunera- ^{Remunera-} tion for their services as may be sanctioned by the share- ^{tion of} holders by resolution passed at the annual general meeting ^{directors.} to be held for the purpose of electing the successors of such directors. 3-4 Geo. V. c. 36, s. 23.

24. In case of the absence or illness of the president, the ^{Acting} vice-president, and in case of the absence or illness of the ^{president.} president and vice-president, a director appointed by the directors for that purpose shall have all the rights and powers of the president, and may sign all debentures and other instruments, and perform all acts which, by the regulations and by-laws of the company or by this Act, are required to be signed, performed or done by the president. 3-4 Geo. V. c. 36, s. 24.

25. The directors may at any meeting require the secre- ^{Noting} tary to enter a note of such absence or illness upon the min- ^{absence of} utes of the meeting, and a certificate thereof signed by the ^{president, etc.,} secretary shall be delivered to any person requiring the same ^{in minutes.} on payment of \$1, and such certificate shall be *prima facie* ^{Evidence.} evidence of such absence, or illness at and during the period mentioned in the certificate. 3-4 Geo. V. c. 36, s. 25.

26. The directors shall cause to be kept, and, annually on ^{Accounts.} the 31st day of December, shall cause to be made up and balanced a true, exact and particular account of all money received by the company, or by the directors or manager thereof, or otherwise for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company. 3-4 Geo. V. c. 36, s. 26.

Calls.

Calls. 27.—(1) The directors may from time to time make such calls, not exceeding ten per centum of the amount subscribed, upon the shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call; and no call shall exceed the prescribed amount determined in the special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the special Act; but nothing herein shall prevent the directors from making more than one call by one resolution if the intervals between such calls, the notices of each call, and the other provisions of this Act and of the special Act, in respect of calls, are duly observed and given.

Publication. (2) All notices of calls shall be published in the *Ontario Gazette*.

Liability for payment of calls. (3) Every shareholder shall be liable to pay the amount of the call to the persons and at the times and places from time to time appointed by the company or the directors.

Interest on unpaid calls. (4) Interest shall accrue upon the amount of any unpaid call from the day appointed for the payment thereof to the time of the actual payment.

(5) In an action to recover money due upon a call it shall be sufficient to state that the defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, stating the number and amount of each call, whereby an action has accrued to the company by virtue of the special Act. 3-4 Geo. V. c. 36, s. 27.

Shares and their Transfer.

Shares to be deemed personal estate, how transferable. 28.—(1) The shares of the company shall be deemed personal estate and shall be transferable on the books of the company in such manner and subject to such conditions and restrictions as, by this Act, the special Act, the letters patent, supplementary letters patent or by-laws of the company, may be prescribed.

No restrictions upon transfer of paid-up shares. (2) Subject to subsection 1 no by-law shall be passed which in any way restricts the rights of a holder of paid up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. 3-4 Geo. V. c. 36, s. 28.

Transfer of shares not paid up. 29. No transfer of shares, the whole amount whereof has not been paid up, shall be made without the consent of the directors. 3-4 Geo. V. c. 36, s. 29.

30. If any share is transmitted by the death, bankruptcy, or last will, donation or testament, or by the intestacy of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the person to whom such share is so transmitted shall deposit in the office of the company a statement, in writing signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary and until that has been done such person shall not be entitled to receive any share of the profits of the company, or to vote in respect of any such share as the holder thereof. 3-4 Geo. V. c. 36, s. 30.

Transmission of shares, other than by transfer, provided for.

31. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which the share may be subject; and the receipt of the person in whose name any share stands in the books of the company, or if it stands in the names of more persons than one, the receipt of one of the persons named in the register of shareholders, shall be a sufficient discharge to the company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the company have had notice of the trust; and the company shall not be bound to see to the application of the money paid upon such receipt. 3-4 Geo. V. c. 36, s. 31.

Company not bound to see to execution of trusts.

32. The certificate of proprietorship of a share shall be *prima facie* evidence of the title of the person named therein, his executors, administrators, successors or assigns, to such share. 3-4 Geo. V. c. 36, s. 32.

Prima facie evidence of title.

33.—(1) Every shareholder who makes default in the payment of any call payable by him, together with the interest, if any, accrued thereon, for the space of two months after the time appointed for the payment thereof, shall forfeit to the company his shares in the company and all the profit and benefit thereof.

Non-payment of calls.

Forfeiture.

(2) No advantage shall be taken of the forfeiture unless the shares are declared to be forfeited at a general meeting of the company, assembled at any time after such forfeiture has been incurred. 3-4 Geo. V. c. 36, s. 33.

When forfeiture enforceable.

34. Every shareholder so forfeiting shall be by such forfeiture, relieved from liability in all actions, suits or prosecutions whatsoever which may be commenced or prosecuted against him for any breach of the contract existing between such shareholder and the other shareholders by reason of such shareholder having subscribed for or become the holder of the shares so forfeited. 3-4 Geo. V. c. 36, s. 34.

Effect of forfeiture.

Sale of
forfeited
shares.

35.—(1) The directors may, subject as hereinafter provided, sell, either by public auction or private sale, any shares so declared to be forfeited, upon authority therefor having been first given by the shareholders, either at the general meeting at which such shares were declared to be forfeited or at any subsequent general meeting.

Limitation.

(2) The directors shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture.

Surplus
proceeds to
defaulter.

(3) If the money produced by the sale of any such forfeited shares is more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and the sale of such shares, the surplus shall, on demand, be paid to the defaulter.

Payment of
arrears be-
fore sale.

(4) If payment of such arrears of calls and interest and expenses is made before any share so forfeited and vested in the company is sold, such share shall revert to the person to whom it belonged before such forfeiture, who shall be entitled thereto as if such calls had been duly paid.

Who may
purchase.

(5) Any shareholder may purchase any forfeited share so sold. 3-4 Geo. V. c. 36, s. 35.

Certificate
of treasurer
to consti-
tute title.

36.—(1) A certificate of the treasurer of the company that any share of the company has been declared forfeited for non payment of any call, and that such share has been purchased by a purchaser therein named shall, together with the receipt of the treasurer of the company for the price of such share, constitute a good title thereto.

To be
registered.

(2) Such certificate shall be registered by the treasurer in the name and with the place of abode and occupation of the purchaser and shall be entered in the books to be kept by the company, and such purchaser shall thereupon be deemed to be the holder of such share.

Purchase
money.

(3) The purchaser shall not be bound to see to the application of the purchase money.

Irregularity.

(4) The title of the purchaser to such share shall not be affected by any irregularity in the proceedings in reference to such sale. 3-4 Geo. V. c. 36, s. 36.

Rights to
pay in
advance
of calls

37.—(1) A shareholder who is willing to advance the amount of his shares, or any part of the money due upon his shares beyond the sums actually called for, may pay the same to the company.

(2) Upon the principal money so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect to which such advance is made, the company may pay interest, at such rate as the shareholders who pay such sum in advance and the company agree upon.

Interest on
advance
made by
shareholder
to company.

(3) Such interest shall not be paid out of the capital sub-Condition.
scribed. 3-4 Geo. V. c. 36, s. 37.

Shareholders.

38. Every shareholder shall be individually liable to the creditors of the company for the debts and liabilities of the company to an amount equal to the amount unpaid on the stock held by him, and until the whole amount of his stock has been paid up; but no action shall be instituted or maintained against any shareholder in respect of such liability until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part. 3-4 Geo. V. c. 36, s. 38.

Extent of
shareholders'
liability.

39. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of or entitled to any shares therein, and of all the other acts, proceedings and transactions of the company and of the directors for the time being and such account shall be open to the inspection of the shareholders. 6 Edw. VII. c. 30, s. 36.

Account of
names and
residence
of share-
holders to
be kept.

And of all
proceedings.

40. All shareholders in the company, whether British subjects or aliens, or resident in Ontario or elsewhere, shall have equal rights to hold stock in the company, and to vote on the same, and, subject as herein provided, shall be eligible to office in the company. 3-4 Geo. V. c. 36, s. 40.

Rights of
aliens or
non-residents.

Preference Stock.

41.—(1) The directors may pass by-laws for creating and issuing any part of the capital stock as preference stock, giving the same such preference and priority as respects dividends and otherwise over ordinary stock as may be declared by the by-law.

By-law
for issuing.

(2) The by-law may provide that the holders of shares of such preference stock shall have the right to elect a certain stated proportion of the board of directors, or may give them such other control over the affairs of the company as may be considered expedient.

Special
rights of
preference
share-
holders.

(3) Subject to subsection 4 no such by-law shall have any force or effect until it has been unanimously sanctioned by a vote of the shareholders present, in person or by proxy, at

Unanimous
sanction
required.

a general meeting of the company duly called for considering the same, or unanimously sanctioned in writing by the shareholders of the company.

(5) If the by-law is sanctioned by three-fourths in value of the shareholders the company may apply to the Board for an order approving the by-law, and the Board may approve thereof and from the date of such approval the by-law shall be valid and may be acted upon.

Rights and
liabilities
of preference
shareholders.

(6) Holders of shares of such preference stock shall be shareholders within the meaning of this Act, and shall in all respects possess the rights and be subject to the liabilities of shareholders, except that in respect of dividends and otherwise they shall, as against the ordinary shareholders, be entitled to the preferences and rights given by such by-law.

(6) Nothing in this section or done in pursuance of it shall affect or impair the rights of creditors of the company.
3-4 Geo. V. c. 36, s. 41.

Dividends and Interest.

Declaration
of dividends.

42. Dividends, at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the company, may, from time to time, be declared and paid by the directors out of the net profits of the undertaking. 3-4 Geo. V. c. 36, s. 42.

Reserve
fund.

43.—(1) The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing, maintaining, renewing or extending the railway or any portion thereof, and shall submit their action in regard to such reserve fund to the shareholders at a general meeting for their approval.

Investment
of same.

(2) The directors may invest the sum so set apart as a reserve fund in such securities, not inconsistent with this or the special Act as they select. 3-4 Geo. V. c. 36, s. 43.

Dividend
not to im-
pair capital,
etc.

44. No dividend shall be

(a) declared whereby the capital of the company is in any degree reduced or impaired; or

(b) paid out of such capital; or

Calls to
be paid.

(c) paid in respect of any share after a day appointed for payment of any call in respect thereof, until such call has been paid,

Interest
may be paid
on calls
pending
opening of
road.

but the directors may, in their discretion, until the railway is completed and opened to the public, pay interest, at any rate not exceeding five per centum per annum, on all sums

actually paid in cash in respect of the shares, from the respective days on which the same have been paid; and such interest shall accrue and be paid at such time and places as the directors appoint for that purpose. 3-4 Geo. V. c. 36, s. 44.

45. No interest shall accrue to any shareholder in respect of any share upon which any call is in arrear, or in respect of any other share held by such shareholder while such call remains unpaid. 3-4 Geo. V. c. 36, s. 45.

None on calls in arrear.

46. The directors may deduct from any dividend payable to any shareholder all or any such sum or sums of money as are due from him to the company on account of any call or otherwise. 3-4 Geo. V. c. 36, s. 46.

Deduction of arrears or calls from dividends.

Bonds, Mortgages, and Borrowing Powers.—Foreclosure.

See section 137 of R.S.C. cap. 37.

47.—(1) The directors, under the authority of the shareholders, given at a special meeting called for the purpose or at any annual meeting for which like notice of intention to apply for such authority has been given as is required in the case of a special meeting, and at which meeting, whether annual or special, shareholders representing at least two-thirds in value of the subscribed stock of the company and who have paid all calls due thereon are present in person or represented by proxy, may, subject to the provisions in this Act and the special Act contained, issue bonds, debentures, perpetual or terminating debenture stock, or other securities, signed by the president or other presiding officer and countersigned by the secretary, which countersignature and the signature to the coupons attached to the same may be engraved; and such securities may be made payable at such times and in such manner and at such place or places in Canada or elsewhere, and may bear such rate of interest, not exceeding five per centum per annum, as the directors think proper.

When issue of securities authorized.

Presence of shareholders.

When and where payable.

Interest.

(2) Such securities shall not exceed the amount authorized by the special Act and may be issued only in proportion to the length of railway constructed or under contract to be constructed.

Limit of bonding powers.

(3) The directors may, for the purpose of raising money for prosecuting the undertaking, issue and sell or pledge all or any of such securities.

Raising money on securities.

(4) No such security shall be for a less sum than \$100.

Denominations.

(5) The power of issuing securities conferred by this or the special Act shall not be exhausted by any issue; but may be exercised from time to time upon the securities constituting the issue being withdrawn or paid off and duly cancelled; but in no case shall the limit fixed in the special Act be exceeded. 3-4 Geo. V. c. 36, s. 47.

Continuance of right to issue securities.

Limit.

Mortgages
securing
bonds, etc.

48.—(1) The company may secure such bonds, debentures, debenture stock or other securities, by a deed creating such mortgage, charge or incumbrance upon the whole of such property, assets, rents and revenues of the company, present or future or both, as are described in the deed; but the same shall be subject in the first instance to the payment of any penalty imposed for non-compliance with the requirements of this Act and next to the payment of the working expenditure of the railway.

How
ranked.

Powers
conferred
on holders.

(2) By the deed the company may grant to the holders of such securities, or the trustees named in the deed, the powers, rights and remedies granted by this Act in respect of such securities, and all other powers, rights and remedies, not inconsistent with this Act, or may restrict the holders in the exercise of any power, privileges or remedy granted by this Act, and all the powers, rights and remedies so provided for shall be valid and binding and available to the holders in manner and form as therein provided.

Exception
of part
of assets.

(3) The company may except from the operation of any such deed any property, assets, rents or revenue of the company, and may declare and provide therein that such mortgage shall only apply to and affect certain sections or portions of the railway or property of the company, but where any such exception is made, the company shall in such deed expressly specify and describe, with sufficient particularity to identify the same, the property assets, rents or revenue of the company, or the sections or portions of the railway not intended to be included therein or conveyed thereby.

Must be
specified.

Mortgage to
be deposited
with the
Board and
notice given.

(4) Every such deed, and every assignment thereof or other instrument in any way affecting such mortgage or security, shall be deposited in the office of the Board, of which deposit notice shall forthwith be given in the *Ontario Gazette*; and such deed or other instrument need not be registered under the provisions of any law respecting registration of instruments affecting real or personal property.

Evidence.

(5) A copy of any such deed or instrument so deposited certified to be a true copy by the Secretary, shall be *prima facie* evidence of the original without proof of the signature of such official. 3-4 Geo. V. c. 36, s. 48.

Effect of
securities as
a preferential
charge.

49. — (1) Subject as hereinbefore provided to the payment of penalties, and to the working expenditure of the railway and to any restriction or exception contained in the deed, the securities hereby authorized to be issued shall be the first preferential claim and charge upon the company, and the franchise, undertaking, tolls and income, rents and revenues, and real and personal property thereof, at any time acquired.

Holders
ranked
pro rata.

(2) Each holder of such securities shall be deemed to be a mortgagee or incumbrancer upon the securities, *pro rata*

with all the other holders, but no proceeding authorized by law or by this Act, shall be taken to enforce payment of such securities or of the interest thereon except through the trustee or trustees appointed by or under the deed. 3-4 Geo. V. c. 36, s. 49.

50.—(1) If the company makes default in paying the principal of or interest on any of such securities, at the time when the same becomes due and payable, then at the next annual general meeting of the company, and at all subsequent meetings, all holders of securities so being and remaining in default shall, in respect thereof, have the same rights and privileges and qualifications for being elected directors and for voting at general meetings as would attach to them as shareholders if they held fully paid up shares of the company to a corresponding amount.

Rights of holders of securities upon default in payment.

(2) Each such holder shall, for the purpose of voting at any such meeting, be deemed to be a shareholder and shall be entitled to as many votes as if he held shares in the company on which all calls had been paid, equal at a par valuation to the amount of such securities so held by him, and may vote by proxy in like manner and to the same extent as a shareholder; but no person who is not himself a holder of such security or a shareholder in the company shall be qualified to be appointed a proxy.

Right of holders to vote at meetings. How determined.

Proxies.

(3) The rights given by this section shall not be exercised by any such holder unless it is so provided by the deed, nor unless the security in respect of which he claims to exercise such rights has been registered in his name, in the same manner as the shares of the company are registered, at least ten days before he attempts to exercise the right of voting thereon; and the company shall be bound on demand to register such securities, and thereafter any transfers thereof in the same manner as shares or transfers of shares.

Limitation of right of voting.

(4) The exercise of the rights given by this section shall not take away, limit or restrict any other of the rights or remedies to which the holders of the securities are entitled under the provisions of the deed. 3-4 Geo. V. c. 36, s. 50.

Other rights under mortgage deed preserved.

51. All securities hereby authorized may be made payable to bearer, and shall in that case be transferable by delivery, until registration thereof as hereinbefore provided, and while so registered they shall be transferable by written transfers, registered in the same manner as the transfers of shares. 3-4 Geo. V. c. 36, s. 51.

Made of transfer of securities.

As to deposit of mortgage to secure bonds covering rolling stock hired to company, see Bills of Sales and Chattel Mortgage Act, R.S.O. c. 135.

Borrowing
money by
overdraft or
negotiable
instrument.

52.—(1) The company may, for the purposes of the undertaking, borrow money by overdraft or upon promissory note, bill of exchange, warehouse receipt, or otherwise upon the credit of the company, and become party to promissory notes and bills of exchange.

Binding
nature of
instrument.

(2) Every such note or bill made, drawn, accepted or endorsed, by the president or vice-president, or other officer authorized by the by laws, and countersigned by the secretary, shall be binding on the company; and shall be presumed to have been made, drawn, accepted or endorsed with proper authority, until the contrary is shown.

Presump-
tion.

No seal
necessary.

(3) It shall not be necessary to have the seal of the company affixed to such promissory note or bill of exchange, nor shall the president or vice-president or secretary or other officer so authorized be individually responsible for the same, unless such promissory note or bill of exchange has been issued without proper authority.

Notes not
to be pay-
able to
bearer.

(4) Nothing in this section shall be construed to authorize the company to issue any note or bill payable to bearer, or intended to be circulated as money or as the note or bill of a bank. 3-4 Geo. V. c. 36, s. 52.

Interpreta-
tion.

53.—(1) In this section

- (a) "Purchaser" shall include a mortgagee or his assigns who has obtained title by foreclosure,
- (b) "Conveyance" shall include a judgment or order for foreclosure.

Enforcing
mortgages.

(2) Every mortgage heretofore or hereafter made by a railway, electric railway, street railway or incline railway company may be enforced by judgment for foreclosure or sale in the same manner and to the same extent as such mortgage could be so enforced if the same had been made by a company not incorporated for any public purpose.

Purchaser
without
corporate
powers to
obtain
authority
to operate.

(3) If a railway, electric railway, street railway or incline railway, or any section thereof is sold under the provisions of any deed or mortgage, or at the instance of the holders of any mortgage, bonds or debentures, for the payment of which any charge has been created thereon, or under any other lawful proceeding, and is purchased by any person not having corporate power to hold and operate the same, the purchaser shall not run or operate such railway, electric railway or street railway, or incline railway until authority therefor has been obtained as in this section provided.

Application
to Provin-
cial Secre-
tary by
purchaser.

(4) The purchaser shall transmit to the Provincial Secretary an application in writing stating the fact of such purchase, describing the termini and lines of route of the railway, electric railway, street railway or incline railway purchased, specifying the charter or special Act under which

the same was constructed and operated, and requesting authority to run and operate the same, and shall, with such application, transmit a copy of any writing preliminary to the conveyance of such railway, electric railway, street railway, or incline railway, made as evidence of such sale, and also a duplicate or authenticated copy of the deed of conveyance of such railway, electric railway, street railway or incline railway, and such further details and information as the Provincial Secretary may require.

(5) Upon any such application, the Provincial Secretary may, if he is satisfied therewith, grant an order authorizing the purchaser to run and operate the railway purchased until the end of the then next session of this Legislature, subject to such terms and conditions as the Provincial Secretary may deem expedient.

Interim
authorization
by Provincial
Secretary.

(6) The purchaser shall thereupon be authorized, for such period only and subject to such order, to operate such railway, electric railway, street railway, or incline railway, and to take and receive such tolls in respect of traffic carried thereon as the company previously owning and operating the same was authorized to take, and the purchaser shall also be subject to the terms and conditions of the charter or special Act of the said company in so far as the same can be made applicable.

How far
purchaser
thereupon
authorized
to operate
railway.

(7) Such purchaser shall apply to this Legislature at the next following session thereof after the granting of such order by the Provincial Secretary, for an Act of incorporation or other legislative authority, to hold, operate and run the railway.

Application
to Legis-
lature.

(8) If such application is made and is unsuccessful the Provincial Secretary may extend the order to run and operate the railway until the end of the then next following session of this Legislature, and no longer.

One
extension
allowed.

(9) If, during such extended period, the purchaser does not obtain such Act of incorporation or other legislative authority such railway shall be closed or otherwise dealt with by the Provincial Secretary as may be determined by the Lieutenant-Governor in Council. 3-4 Geo. V. c. 36, s. 53.

Closing
of road.

POWERS.

General Powers.

54. The company may, for the purposes of the undertaking, subject to the provisions in this and the special Act contained,

or com-
pany.

(a) enter into and upon any land of any person whomsoever lying in the intended route or line of the railway, and make surveys, examinations or other necessary arrangements on such land for

Entry upon
land.

- fixing the site of the railway, and set out and ascertain such parts of the land as are necessary and proper for the railway;
- Surveys.
- Receive grants and bonuses.
- (b) receive, take and hold, all voluntary grants and donations of land or other property or any bonus of money or debentures, or other benefit of any sort, made to it for the purpose of aiding in the construction, maintenance and accommodation of the railway; but the same shall be held and used for the purpose of such grants or donations only;
- Acquire property.
- (c) purchase, take and hold of and from any person any land or other property necessary for the construction, maintenance and operation of the railway, and also alienate, sell or dispose of any land or property of the company which for any reason has become not necessary for the purposes of the railway;
- Dispose of property not required.
- (d) make, carry or place the railway across or upon the land of any person on the located line of the railway;
- Placing of railway.
- (e) cross any railway, or join the railway with any other railway at any point on its route, and upon the land of such other railway, with the necessary conveniences for the purposes of such connection, and the owners of both railways may unite in forming such intersection and grant the facilities therefor; and the amount of compensation to be made therefor, the point and manner of such crossing and connection shall be determined by the Board, as provided by this Act;
- Cross and connect with other railways.
- (f) make, complete, operate, alter and maintain the railway with one or more sets of rails or tracks, to be worked by the force or power of steam, electricity, or of the atmosphere, or by mechanical power, or any combination of them;
- Construction and operation of railway.
- (g) construct, erect, and maintain all necessary and convenient roads, buildings, stations, depots, wharfs, docks, elevators, and other structures, and construct, purchase and acquire stationary or locomotive engines, rolling stock, and other apparatus necessary for the accommodation and use of the traffic and business of the railway;
- Buildings, equipment, etc.
- (h) make branch railways, and manage the same, and for that purpose exercise all the powers, privileges and authority necessary therefor, in as full and ample a manner as for the railway;
- Branch railways.
- (i) take, transport, carry and convey persons and goods on the railway, and regulate the time and manner
- Transport passengers and freight.

in which the same shall be transported, and the tolls to be charged therefor;

- (j) fell or remove any trees which stand within one hundred feet from either side of the right of way of the railway, or which are liable to fall across any railway track; Remove trees.
- (k) make or construct in, upon, across, under or over any railway, tramway, river, stream, watercourse, canal, or highway, which the railway intersects or touches, temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings and fences; Make tunnels and other works.
- (l) divert or alter, as well temporarily as permanently, the course of any such river, stream, watercourse, or highway, or raise or sink the level thereof, in order the more conveniently to carry the same over, under or by the side of the railway; Divert highways and waterways.
- (m) make drains or conduits into, through or under any land adjoining the railway, for the purpose of conveying water from or to the railway; Construct drains.
- (n) with the consent of the Board, after notice to any person interested, divert or alter the position of any water-pipe, gas-pipe, sewer, or drain, or any telegraph, telephone or electric lines, wires or poles; Divert drains, pipes and wires.
- (o) with the consent of the Board, after notice to any person interested, from time to time alter, repair or discontinue the works hereinbefore mentioned, or any of them, and substitute others in their stead; and Alter and substitute other works.
- (p) do all other acts necessary for the construction, maintenance and operation of the railway. Other necessary acts.

3-4 Geo. V. c. 36, s. 54.

Navigable Waters.

55. No company shall cause any obstruction in, or impede the free navigation of any river, water, stream or canal, to, upon, along, over, under, through or across which its railway is carried. 3-4 Geo. V. c. 36, s. 55. Duty not to obstruct navigation.

56. No company shall run its trains over any canal or over any navigable water without having first laid, and without maintaining, such proper flooring under and on both sides of its railway track over such canal or water as is deemed by the Board sufficient to prevent anything falling from the railway into such canal or water, or upon the boats, vessels, craft, or persons navigating such canal or water. 3-4 Geo. V. c. 36, s. 56. Proper flooring of bridges.

Compensation.

Application
of s. 54 (e).

57. The provisions for the ascertainment of compensation contained in clause (e) of section 54 shall not extend or apply to any railway incorporated under an Act of this Legislature when it is proposed that such railway shall cross, intersect, join, or unite with, or be crossed, intersected, joined or united with a railway within the legislative authority of the Parliament of Canada. 3-4 Geo. V. c. 36, s. 57.

Duty of
restoration.

58. The company shall restore, as nearly as possible, to its former state any river, stream, watercourse, highway, water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric line, wire or pole, which it diverts or alters, or it shall put the same in such a state as not materially to impair the usefulness thereof. 3-4 Geo. V. c. 36, s. 58.

Compensa-
tion for
damage.

59. The company shall, in the exercise of the powers by this or the special Act granted, do as little damage as possible, and shall make full compensation, in the manner herein and in the special Act provided, to all persons interested for all damage by them sustained by reason of the exercise of such powers. 3-4 Geo. V. c. 36, s. 59.

Taking or using Land of Other Companies.

Use of
land of
other com-
panies.

60.—(1) The company may take possession of, use or occupy any land belonging to any other railway company, use and enjoy the whole or any portion of the right of way, tracks, terminals, stations or station grounds of any other railway company, and have and exercise full right and power to run and operate its trains over and upon any portion of the railway of any other railway company, subject always to the approval of the Board first obtained and to any order and direction which the Board may make in regard to the exercise, enjoyment or restriction of such powers or privileges.

Approval
of Board.

Procedure
therefor.

(2) Such approval may be given upon application and notice, and, after hearing, the Board may make such order, give such directions, and impose such conditions or duties upon either party as to it may appear just or desirable, having due regard to the public and all proper interests.

Compensa-
tion.

(3) If the companies fail to agree as to the compensation the Board may, by order, fix the amount of the compensation to be paid in respect of the powers and privileges so granted. 3-4 Geo. V. c. 36, s. 60.

Public Land.

When and
how far
public lands,
beaches, etc.,
may be
occupied.

61.—(1) The company shall not take possession of, use or occupy any land belonging to Ontario without the consent of the Lieutenant-Governor in Council; but with such consent such company may take and appropriate for the use of

its railway and works, but not alienate, so much of the wild lands lying on the route of the railway as have not been granted or sold, and as may be necessary for the railway, as also so much of the public beach or of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using its railway and works.

(2) The extent of the public beach or of the land covered with the water of any river or lake taken for the railway shall not exceed the quantity limited in section 81. 3-4 Geo. V. c. 36, s. 61. Limitation.

Telegraph, telephone and other lines.

62.—(1) Except as provided in section 63 the company may construct and operate an electric telegraph line and a telephone line throughout and along the whole line of railway, and the branches thereof, or any part of the railway or branches, and for the purpose of constructing, working and protecting such telegraph and telephone lines, the powers conferred upon telegraph companies by *The Telegraph Companies Act* are hereby conferred upon the company; but no poles shall be erected in the construction of such lines in or through any city, town or village except under an agreement with the corporation of such city, town or village, or in default of such agreement by leave of the Board and upon such terms and conditions as it may prescribe. Power to erect telegraph and telephone lines.
Rev. Stat. c 180.
Limitation.

(2) Such telegraph and telephone lines shall be used exclusively for the purposes of the business of the company. Use of lines.

(3) Where any municipal corporation or person has authority to construct, operate and maintain a telephone system in any locality, and is desirous of obtaining connection or communication with or within any station or premises of the company in such locality, and cannot agree with the company with respect thereto, such municipal corporation or person may apply to the Board, and the Board may order the company to provide for such connection or communication upon such terms as to compensation as the Board deems just, and the Board may order and direct how, when, where, by whom and upon what terms and conditions such connection or communication shall be constructed, operated and maintained. Other telephone systems, connections with.
Terms.

(4) Notwithstanding anything in any Act contained, the Board, in determining the terms or compensation upon which any such connection or communication is to be provided for, shall not take into consideration any contract, lease or agreement now or hereafter in force by which the company has given or gives any exclusive or other privilege to any company or person, other than the applicant, with respect to any such station or premises. 3-4 Geo. V. c. 36, s. 62. Contracts giving exclusive privileges not to be taken into consideration.

Wires, etc.,
across
railway.

63.--(1) No lines or wires, for telegraphs, telephones or the conveyance of light, heat, power or electricity, shall be erected, placed or maintained across a railway without the leave of the Board.

Submission
of plans
to Board.

(2) Upon an application for such leave the applicant shall submit to the Board a plan and profile of the part of the railway proposed to be affected, showing the proposed location of such lines and wires and the works contemplated in connection therewith.

Order by
Board.

(3) The Board may grant such application and may order by whom, how, when, and on what terms and conditions, and under what supervision, such work shall be executed.

Erecting.

(4) Upon such order being made such lines and wires may be erected, placed and maintained across the railway subject to and in accordance with such order.

Order
dispensed
with where
compliance
with general
regulations.

(5) An order of the Board shall not be required in cases in which wires or other conductors for the transmission of electrical energy are to be erected or maintained over or under a railway, or over or under wires or other conductors for the transmission of electrical energy, with the consent of the railway company or the company owning or controlling such last mentioned wires or conductors, in accordance with any general regulations, plans or specifications adopted or approved by the Board. 3-4 Geo. V. c. 36, s. 63.

General
rules and
regulations
of Board.

64. The Board shall prescribe rules and regulations and standard plans and specifications to be adhered to in carrying lines of wires to be used for telephone and telegraph purposes across the railway, and no lines of such wires shall thereafter be carried across the railway in any other way or on any other terms without the leave of the Board, but in special cases, on the application of any person or corporation to be affected by such crossing, the Board may order that such crossing shall be made in some other manner than that prescribed by the standard plans and specifications. 3-4 Geo. V. c. 36, s. 64.

Proviso.

Interchange of Traffic.

One com-
pany may
agree with
another re-
specting
traffic.

65.--(1) The directors may, at any time and from time to time, make and enter into any agreement or arrangement, not inconsistent with this or the special Act, with any other company for the interchange of traffic between their railways or vessels and for the division and apportionment of tolls in respect of such traffic.

And agree-
ments for.

(2) The directors may also make and enter into any agreement or arrangement, not inconsistent with the provisions of this or the special Act, for any term not exceeding twenty-one years,—

- (a) for the running of the trains of one company over the tracks of another company; Running powers.
- (b) for the division and apportionment of tolls in respect of such traffic; Division of tolls.
- (c) generally in relation to the management and working of the railways, or any of them, or any part thereof, and of any railway or railways in connection therewith; and Management and working.
- (d) providing, either by proxy or otherwise, for the appointment of a joint committee for the better carrying into effect of any such agreement or arrangement, with such powers and functions as are considered necessary or expedient, Joint committee.

subject to the like consent of the shareholders, the sanction of the Board, application, notices and filing, as hereinafter provided with respect to amalgamation agreements, except that publication of notices in the *Ontario Gazette* shall be sufficient notice. Conditions.

(3) The Board may, notwithstanding anything in this section, by order or regulation, exempt the company from complying with any of the foregoing conditions, with respect to any such agreement or arrangement made or entered into by the company for the transaction of its usual and ordinary business. Board may exempt from conditions.

(4) Neither the making of any such agreement or arrangement, nor anything therein contained, nor any approval thereof, shall restrict, limit, or affect any power by this Act vested in the Board or relieve the companies from complying with the provisions of this Act. Saving.

(5) If any officer, servant or agent of a railway company, having the superintendence of the traffic at any station or depot thereof, refuses or neglects to receive, convey or deliver at any station or depot of the company for which they may be destined any passenger, goods or things, brought, conveyed or delivered to him or to such company for conveyance over or along the railway from that of any other company intersecting or coming near to such first-mentioned railway, or in any way wilfully contravenes the provisions of the next preceding subsection, such first-mentioned railway company or such officer, servant or agent, personally, shall, for every such neglect or refusal, incur a penalty not exceeding \$50 and shall in addition be liable to the person aggrieved for the actual damages sustained by reason of such wrongful act. Penalty on companies or their officers refusing or neglecting to forward traffic as above required. Damages.

(6) In case any company or municipality interested is unable to agree as to the regulation and interchange of traffic or in respect of any other matter in this section provided for, the same shall be determined by the Board. Board to determine.

Complaints.

(7) All complaints made under this section shall be heard and determined by the Board.

Street railways.

(8) This section shall apply to such street railways as may from time to time be determined by the Board. 3-4 Geo. V. c. 36, s. 65.

Amalgamation Agreements.

Agreement for sale, lease or amalgamation of railway.

66.—(1) Where the company is authorized, by the special Act, to enter into an agreement with any other company for selling, conveying or leasing to such company the railway and undertaking of the company, in whole or in part, or for purchasing or leasing from the company its railway and undertaking, in whole or in part, or for amalgamation, such agreement shall be first approved by two-thirds of the votes of the shareholders of each company, party thereto, at any annual general meeting, or at a special general meeting, of each company called for the purpose of considering such agreement, at each of which meetings shareholders representing at least two-thirds in value of the capital stock of each company are present or represented by proxy.

Approval of shareholders.

Sanction of Board.

(2) Upon such agreement being so approved and duly executed it shall be submitted to the Board for the sanction thereof.

Publishing notice of application.

(3) Notice of the proposed application for such sanction shall be published in the *Ontario Gazette* for at least one month prior to the time, to be stated therein, for the making of such application, and also, unless the Board otherwise orders, for a like period in one newspaper in each of the counties or districts through which the railway to be sold, leased or amalgamated runs in which a newspaper is published.

Action of Board.

Proceedings upon sanction.

Notice.

(4) Upon such notice being given the Board shall grant or refuse the application, and upon such agreement being sanctioned it shall be filed in the office of the Board and thereupon shall come into force and effect, and notice thereof shall be forthwith given in the *Ontario Gazette*.

Evidence of compliance with requirements.

(5) The production of the *Ontario Gazette* containing such notice shall be *prima facie* evidence of the requirements of this section having been complied with. 3-4 Geo. V. c. 36, s. 66.

Effect of amalgamation upon properties, powers and liabilities.

67. Upon any agreement for amalgamation coming into effect, as provided in the last preceding section, the companies, parties to such agreement, shall, subject to the provisions of this Act and the special Act authorizing such agreement to be entered into, be deemed to be amalgamated, and shall form one company under the name and upon the terms and conditions in such agreement provided; and the amalgamated company shall possess and be vested with all

the railways and undertakings, and all other the powers, rights, privileges, franchises, assets, effects, and properties belonging to, possessed by, or vested in the companies, parties to such agreement, or to which they, or any or either of them, may be or become entitled; and shall be liable for all claims, demands, rights, securities, causes of action, complaints, debts, obligations, works, contracts, agreements, or duties, to as full an extent as any or either of such companies was at or before the time when the amalgamation agreement came into effect. 3-4 Geo. V. c. 36, s. 67.

68.—(1) Notwithstanding anything in any agreement made or sanctioned under the provisions of the next preceding two sections, every act, matter or thing, done, effected or confirmed under or by virtue of this Act or the special Act, before the date of the coming into effect of such agreement, shall be as valid as if it had never come into effect; and such agreement shall be subject and without prejudice to every such act, matter or thing, and to all rights, liabilities, claims and demands, present or future, which would be incident to or consequent upon such act, matter or thing if such agreement had never come into effect. Saving of rights and claims.

(2) In the case of an agreement for amalgamation, as to all acts, matters and things so done, effected or confirmed, and as to all such rights, liabilities, claims and demands, the amalgamated company shall for all purposes stand in the place of and represent the companies who are parties thereto; and the generality of the provisions of this section shall not be deemed to be restricted by any special Act, unless this section is expressly referred to in it and expressly limited or restricted thereby. 3-4 Geo. V. c. 36, s. 68. Representation of former companies.

PLANS AND SURVEYS.

69.—(1) The company shall prepare and submit to the Board a map showing the general location of the proposed line of the railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tidewaters, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway, and, generally, the physical features of the country through which the railway is to be constructed, and shall give such further or other information as the Board may require. Map of general location proposed.

(2) Such map shall be prepared upon a scale of not less than six miles to the inch, or upon such other appropriate scale as the Board may determine, and shall be accompanied by an application, stating the special Act authorizing the construction of such railway, and requesting the Board's approval of the general location as shown on the map. Scale. Application.

(3) Before approving such map and location the Board may, subject to the special Act, make such changes and altera- Approval.

Alterations.	tions therein as it may deem expedient, and, upon being satisfied therewith, shall signify its approval upon the map.
Filing.	(4) The map when so approved and the application shall be filed with the Board.
Board may approve whole or portion.	(5) The Board in approving of any such map and location may approve the whole or any portion thereof, and where it approves only a portion thereof it shall signify its approval upon the map accordingly.
Application of section.	(6) The provisions of this section shall only apply to the main line, and to branch lines over six miles in length. 3-4 Geo. V. c. 36, s. 69.
Plan, profile and book of reference.	70. —(1) Upon compliance with the provisions of the last preceding section the company shall make a plan, profile and book of reference of the railway.
Plan.	(2) The plan shall show <ul style="list-style-type: none"> (a) the right of way, with lengths of sections in miles; (b) the names of terminal points; (c) the station grounds; (d) the property lines and owners' names; (e) the areas and length and width of land proposed to be taken, in figures, stating every change of width; (f) the bearings; and (g) all open drains, watercourses, highways and railways proposed to be crossed or affected.
Profile.	(3) The profile shall show the grades, curves, highway and railway crossings, open drains and watercourses.
Book of reference.	(4) The book of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving number of the lots, and the area, length and width of the portion of each lot proposed to be taken, and the names of the owners and occupiers so far as they can be ascertained.
Further information.	(5) The Board may require any additional information for the proper understanding of the plan and profile.
Sections.	(6) The plan, profile and book of reference may be of a section or sections of the railway. 3-4 Geo. V. c. 36, s. 70.
Sanction by Board.	71. —(1) Such plan, profile and book of reference shall be submitted to the Board which, if satisfied therewith, may sanction the same.
Effect.	(2) The Board by such sanction shall be deemed to have approved merely the location of the railway and the grades and curves thereof as shown in such plan, profile and book

of reference, but not to have relieved the company from otherwise complying with this Act.

(3) The Board may sanction a deviation of not more than one mile from any one point on the general location approved under section 69.

Board may sanction deviation of 1 mile.

(4) Before sanctioning any plan, profile or book of reference of a section of a railway the Board may require the company to submit the plan, profile and book of reference of the whole, or of any portion of the remainder of the railway, or such further or other information as the Board may deem expedient.

Further information.

(5) In granting any such sanction the Board may fix a period (a) within which the company must acquire the land included in its right-of-way, or take the necessary steps for such purpose; or (b) within which the notices mentioned in section 90 shall be conclusively deemed to have been given; and in the event of the order granting such sanction, whether made before or after the passing of this Act, providing no such time limit, any owner or person interested in land included in the right of way, as shown by the plan, may apply to the Board for an order that the company shall acquire such lands or take the necessary steps for such purposes, within such time as the Board deems proper, and thereupon the Board may make such order in the premises as appears just. 3-4 Geo. V. c. 36, s. 71.

Time for acquiring land.

For giving notice.

72.—(1) The plan, profile and book of reference, when so sanctioned, shall be deposited with the Board, and plans shall be numbered consecutively in the order of their deposit.

Deposit with Board.

(2) The company shall also deposit copies thereof, or of such parts thereof as relate to each county or district through which the railway is to pass, duly certified as copies by the secretary, in the offices of the registrars of deeds for such counties or districts. 3-4 Geo. V. c. 36, s. 72.

In registry offices.

73. The railway may be made, carried or placed across or upon the land of any person on the located line, although through error or any other cause the name of such person has not been entered in the book of reference, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such land. 3-4 Geo. V. c. 36, s. 73.

Errors.

74.—(1) Where any omission, misstatement or error is made in any plan, profile or book of reference so registered the company may apply to the Board for a certificate to correct the same.

Corrections.

Procedure.

(2) The Board may require notice to be given to parties interested, and, if it appears to the Board that such omission, misstatement or error arose from mistake, may grant a cer-

Certificate of correction.

tificate setting forth the nature of the omission, misstatement or error, and the correction allowed.

Deposit
of certificate
of correction.

(3) Upon the deposit of such certificate with the Board, and of copies thereof, certified as such by the Secretary, with the registrars of deeds of the counties or districts in which the lands are situate, the plan, profile or book of reference shall be taken to be corrected in accordance therewith, and the company may thereupon, subject to this Act, construct the railway in accordance with such correction. 3-4 Geo. V. c. 36, s. 74.

Duties of
registrars
of deeds.

75.—(1) Every registrar of deeds shall receive and preserve in his office all plans, profiles, books of reference, certified copies thereof, and other documents required by this Act to be deposited with him, and shall endorse thereon the day, hour and minute when the same were so deposited.

Extracts
and copies.

(2) All persons may resort to such plans, profiles, books of reference, copies and documents so deposited, and may make extracts therefrom, and copies thereof as occasion requires, paying the registrar therefor at the rate of ten cents for each hundred words so copied or extracted and ten cents for each copy made of any plan or profile.

Fees.

Certified
copies.

(3) The registrar shall, at the request of any person, certify copies of any such plan, profile, book of reference, or document, so deposited in his office, or of such portions thereof as may be required, on being paid therefor at the rate of ten cents for each hundred words copied, and such additional sum for any copy of plan or profile furnished by him as is reasonable and customary in like cases, together with fifty cents for each certificate given by him.

Fees.

Certificate
of registrar.

(4) Such certificate shall set forth that the plan, profile or document, a copy of which, or of any portion of which, is certified by him, is deposited in his office, and shall state the time when it was so deposited, and that he has carefully compared the copy certified with the document on file, and that the same is a true copy of the original.

Documents
deposited
with regis-
trar of
deeds to be
prima facie
evidence.

(5) A copy of any plan, profile, book of reference, certified copy thereof, or other document, relating to the location or construction of any railway, and deposited, under the provisions of this Act, with the registrar of deeds of any district or county through which the railway passes, certified by such registrar, in the manner hereinafter required, to be a true copy, shall be *prima facie* evidence of the original so deposited, that such original was so deposited at the time certified thereon, and that the same was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which such original purports to be signed, certified, attested or executed, as shown or appearing by such certified copy: and, in the case of a plan, that such plan is prepared according to a scale and in manner and form sanctioned by the Board. 3-4 Geo. V. c. 36, s. 75.

76.—(1) A plan and profile of the completed railway, or of any part thereof, which is completed and in operation, and of the land taken or obtained for the use thereof, shall, within six months after completion of the undertaking, or within six months after beginning to operate any such completed part, as the case may be, or within such extended or renewed period as the Board at any time directs, be made and filed with the Board.

Filing
plan and
profile of
completed
line.

With Board.

(2) Plans of the parts of such railway so completed or in operation located in different districts and counties, prepared on such a scale and in such manner and form, and signed or authenticated in such manner as the Board may from time to time, by general regulation or in any particular case, sanction or require, shall be filed in the registry offices for the counties or districts in which such parts are respectively situate. 3-4 Geo. V. c. 36, s. 76.

In registry
offices.

77.—(1) All plans and profiles required by law to be deposited by the company with the Board shall be drawn to such scale, with such detail, upon such materials, and shall be of such character as the Board may, either by general regulation or in any particular case, sanction or require.

Plans and
profiles, how
prepared.

(2) All such plans and profiles shall be certified and signed by the president or vice-president or general manager and also by the engineer of the company.

Certification.

(3) Any book of reference required to be so deposited shall be prepared to the satisfaction of the Board.

Book of
reference.

(4) Unless and until such plan, profile and book of reference are so made satisfactory to the Board the Board may refuse to sanction the same, or to allow the same to be deposited with the Board. 3-4 Geo. V. c. 36, s. 77.

Board may
refuse
sanction.

78. In addition to such plans, profiles and books of reference the company shall, with all reasonable expedition, prepare and deposit with the Board any other or further plans, profiles, or books of reference of any portion of the railway, or of any siding, station or works thereof, which the Board may from time to time order or require. 3-4 Geo. V. c. 36, s. 78.

Further
plans, etc.,
as Board
requires.

79.—(1) If any deviation, change or alteration is required by the company to be made in the railway, or any portion thereof, as already constructed or as merely located and sanctioned, a plan, profile and book of reference of the portion of such railway proposed to be changed, showing the deviation, change or alteration proposed to be made, shall, in like manner as hereinbefore provided with respect to the original plan, profile and book of reference, be submitted for the approval of the Board, and may be sanctioned by the Board.

Deviations,
changes or
alterations.

Plan, pre-
file, etc.

Sanction
of Board.

Deposit.

(2) The plan, profile and book of reference of the portion of such railway so proposed to be changed shall, when so sanctioned, be deposited and dealt with as hereinbefore provided with respect to such original plan, profile and book of reference.

Company may carry out changes.

(3) The company may thereupon make such deviation, change, or alteration, and all the provisions of this Act shall apply to the portion of such line of railway so at any time changed or proposed to be changed in the same manner as they apply to the original line.

Board may dispense with submission of material.

(4) The Board may, either by general regulation or in any particular case, exempt the company from submitting the plan, profile and book of reference, as in this section provided, where such deviation, change, or alteration, is made, or to be made, for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting the railway, or for any other purpose of public advantage as may seem to the Board expedient, if such deviation, change, or alteration does not exceed three hundred feet from the centre line of the railway located or constructed in accordance with the plans, profiles and books of reference deposited with the Board under this Act.

Termini to be observed.

(5) Nothing in this section shall be taken to authorize any extension of the railway beyond the termini mentioned in the special Act. 3-4 Geo. V. c. 36, s. 79.

Commencement of works.

80. The company shall not commence the construction of the railway, or any section or portion thereof, until the plan, profile and book of reference has been submitted to and sanctioned by the Board as hereinbefore provided, nor until such plan, profile and book of reference so sanctioned has been deposited with the Board, and duly certified copies thereof with the registrars of deeds, in accordance with the provisions of this Act.

Changes.

(2) The company shall not make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of the last preceding section are fully complied with. 3-4 Geo. V. c. 36, s. 80.

ACQUISITION OF LAND.

Quantity allowed without consent of owners.

Extent of land which may be taken.

81. The land which may be taken without the consent of the owner shall not exceed

For right of way.

(a) for the right of way one hundred feet in breadth, except in places where the rail level is or is proposed to be more than five feet above or below the surface of the adjacent land, when such additional width may be taken as shall suffice to accommodate the slope and side ditches;

- (b) for stations, depots and yards, with the freight sheds, warehouses, wharfs, elevators and other structures for the accommodation of traffic incidental thereto, one mile in length by five hundred feet in breadth, including the width of the right of way. 3-4 Geo. V. c. 36, s. 81.

Conveyances by fiduciary owners.

82.—(1) All tenants in tail or for life, guardians, committees of lunatics, or curators, executors, administrators, trustees and all other persons whomsoever as well for and on behalf of themselves, their heirs and successors, as also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, or other persons seized, possessed of or interested in any land, may contract for, sell and convey to the company all or any part thereof.

(2) When such persons have no right in law to sell or convey the rights of property in the said land, they may obtain from a judge, after due notice to the persons interested, the right to sell the said land.

(3) The judge shall make such orders as are necessary to secure the investment of the purchase money in such a manner as he deems proper to secure the interests of the owner of the land.

(4) The powers, by subsections 1 and 2 conferred upon

- (a) rectors in possession of glebe lands,
- (b) ecclesiastical and other corporations,
- (c) trustees of land for church or school purposes,
- (d) executors appointed by wills under which they are not invested with any power over the real property of the testator, and
- (e) administrators of persons dying intestate, but at their death seized of real property

shall only extend and be exercised with respect to any of such land actually required for the use and occupation of the company. 3-4 Geo. V. c. 36, s. 82.

83.—(1) Any contract, agreement, sale, conveyance or assurance made under the authority of the next preceding section shall be valid and effectual in law to all intents and purposes whatsoever, and any conveyance so authorized shall vest in the company receiving the same, the fee simple in the land therein described, freed and discharged from all trusts, restrictions and limitations whatsoever.

(2) The person so conveying is hereby relieved from liability for what he does by virtue of or in pursuance of this Act. 3-4 Geo. V. c. 36, s. 83.

Disposition
of purchase
money.

84. The company shall not be responsible for the disposition of any purchase money for land taken by it for its purposes if paid to the owner of the land or into court for his benefit. 3-4 Geo. V. c. 36, s. 84.

Effect of
contracts
made before
deposit of
map.

85.—(1) Any contract or agreement made by any person authorized by this Act to convey land either before the deposit of the plan, profile and book of reference, or before the setting out and ascertaining of the land required for the railway, shall, if duly registered in the proper registry office, be binding at the price agreed upon if the land is afterwards set out and ascertained within one year from the date of the contract or agreement;

Possession
and pur-
chase
money.

(2) Possession of the land may be taken, and the purchase money may be dealt with, as if it had been fixed by an award of arbitrators as hereinafter provided, and the contract or agreement shall be in the place of an award. 3-4 Geo. V. c. 36, s. 85.

Rental
when parties
cannot sell.

86.—(1) If, in any case not hereinbefore provided for, any person interested in any land so set out and ascertained is not authorized by law to sell or alienate the same he may agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid therefor.

How
fixed.

(2) If the amount of the rent is not fixed by agreement it shall be fixed and all proceedings shall be regulated in the manner herein prescribed.

How charg-
ed in rail-
way
accounts.

(3) Such annual rent and every other annual rent agreed upon or ascertained and to be paid for the purchase of any land, or any part of the purchase money of any land which the vendor agrees to leave unpaid shall, upon the deed creating such charge or liability being duly registered in the registry office of the proper county, district or registration division, be chargeable as part of the working expenditure of the railway. 3-4 Geo. V. c. 36, s. 86.

Purchase of Additional Land.

When more
ample space
required.

87.—(1) Should the company require, at any point on the railway, more ample space than it possesses or may take under section 81, for the convenient accommodation of the public, for the traffic on its railway, for protection against snowdrifts, for the diversion of a highway, for the substitution of one highway for another, or for the construction or taking of any works or measures ordered by the Board under any of the provisions of this Act or the special Act, or to secure the efficient construction, maintenance or operation of the railway, it may apply to the Board for authority to take the same for such purposes without the consent of the owner.

(2) The company shall give ten days' notice of such appli- Procedure.
cation to the owner or possessor of such land, and shall,
upon such application, furnish to the Board copies of such
notices with affidavits of the service thereof.

(3) The company, upon such application, shall also fur- Material
upon appli-
cation.
nish to the Board in duplicate

(a) a plan, profile and book of reference of the portion Plan, etc.
of the railway affected, showing the additional
land required, and certified as hereinbefore pro-
vided with respect to plans and profiles required
to be deposited by the company with the Board;

(b) an application, in writing, for authority to take Particulars
to be
specified.
such land, signed and sworn to by the president,
vice-president, general manager or engineer of
the company, referring to the plan, profile and
book of reference, specifying definitely and in
detail the purposes for which each portion of the
land is required, and the necessity for the same,
and showing that no other land suitable for such
purposes can be acquired at such place on rea-
sonable terms and with less injury to private
rights.

(4) After the time stated in such notices, and the hear- Authority
from Board.
ing of such parties interested as may appear, the Board may,
in its discretion and upon such terms and conditions as the
Board deems expedient, authorize in writing the taking for
such purposes of the whole or any portion of the land applied
for.

(5) Such authority shall be executed in duplicate, and one Deposit
with Board.
of such duplicates shall be filed, with the plan, profile, book
of reference, application and notices, with the Board; and
the other, with the duplicate plan, profile, book of reference
and application, shall be delivered to the company.

(6) Such duplicate authority, plan, profile, book of refer- In registry
offices.
ence and application, or copies thereof certified as such by
the secretary, shall be deposited with the registrars of deeds
of the counties or districts, respectively, in which such lands
are situate.

(7) All the provisions of this Act applicable to the taking Provisions
of this Act
which
apply.
of lands without the consent of the owner for the right of
way or main line of the railway shall apply to the land
authorized under this section to be taken, except the provi-
sions relating to the sanction by the Board of the plan, profile
and book of reference of the railway, and the deposit thereof,
when so sanctioned, with the Board and with registrars of
deeds. 3-4 Geo. V. c. 36, s. 87.

Negotiations with owner for compensation and damages.

After one month's notice of deposit of map, etc., application to the owner of lands.

88.—(1) After the expiration of ten days from the deposit of the plan, profile and book of reference in the office of the registrar of deeds, and after notice thereof in at least one newspaper, if there is any, published in each of the counties through which the railway is intended to pass, application may be made to the owners of lands or to persons empowered to convey land or interested in land which may be taken or which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway; and thereupon such agreements and contracts as seem expedient to both parties may be made with such persons touching the land, or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties.

Settlement of questions.

(2) In case of disagreement between the parties or any of them all questions which arise shall be settled as hereinafter provided. 3-4 Geo. V. c. 36, s. 88.

Effect of depositing plan.

Deposit, etc., to be general notice.

89.—(1) The deposit of a plan, profile and book of reference, and the notice of such deposit, shall be deemed a general notice to all persons of the land which will be required for the railway and works.

Effect on question of damages.

(2) The date of such deposit shall be the date with reference to which such compensation or damages shall be ascertained; but if the company does not actually acquire the land within one year from the date of such deposit then the date of the acquisition shall be the date with reference to which such compensation or damages shall be ascertained. 3-4 Geo. V. c. 36, s. 89.

Notice to owner.

Notice to opposite party.

90.—(1) A notice shall be served upon the owner which shall contain

- (a) a description of the land to be taken, or of the powers intended to be exercised with regard to any land therein described;
- (b) a declaration of readiness to pay a certain sum or rent, as the case may be, as compensation for such land or for such damages; and
- (c) the name of a person to be appointed as the arbitrator of the company if the offer is not accepted.

Certificate of O.L.S. to accompany notice.

(2) The notice shall be accompanied by the certificate of an Ontario Land Surveyor not interested in the matter and not being the arbitrator named in the notice:—

(a) that the land, if the notice relates to the taking of land, shown on the plan, is required for the railway, or is within the limit of deviation allowed by this Act;

(b) that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and

(c) that the sum so offered is, in his opinion, a fair compensation for the land, and for the damages.

(3) If the owner is absent from the county or district in which the land lies, or is unknown, then upon application to a Judge of the County or District Court of the county or district in which the land lies, accompanied by such certificate, and by an affidavit of some officer of the company that such owner is so absent, or that, after diligent inquiry, the owner on whom the notice ought to be served cannot be ascertained, the judge shall order the notice, but without such certificate, to be published three times in the course of one month in some newspaper published in the county or district.

If the party is absent or unknown.

(4) Where the judge is interested in the land, a Judge of the Supreme Court may, on application of the company, exercise all the powers given to a judge of a county or district court by this section.

Provision when the County Judge is interested.

Appointment of sole arbitrator.

(5) If, within ten days after the service of the notice or within one month after the first publication thereof, the person served does not notify the company of his acceptance of the sum offered by it, or notify it of the name of a person whom he appoints as arbitrator, the judge shall, on the application of the company, six days' notice of which shall be given to the owner, appoint a person to be sole arbitrator for determining the compensation or damages to be paid.

Failure to accept the company's offer, or appoint arbitrator.

Appointment of arbitrators, and their duties.

(6) The judge shall, at the request of either party on such application, appoint three arbitrators to determine such compensation or damages, one of whom may be named by each party.

Appointment by judge of three arbitrators.

(7) If the owner within the time mentioned in sub-section 5, notifies the company of the name of his arbitrator, the two arbitrators shall jointly appoint a third, or if they cannot agree upon a third, the judge shall, on the application of the owner or of the company, previous notice of at least one clear day having been given to the other party, appoint a third arbitrator.

Appointment of arbitrator by opposite party.

Third arbitrator.

Notice of claim by owner after entry.

Proceedings
to deter-
mine com-
pensation.

(8) If land has been entered on and taken by the company, with or without the license of the person in possession thereof and without any agreement as to the compensation to be paid therefor, or if the land, though not taken, is injuriously affected by or through the construction of the railway, any owner or person interested in such land may commence proceedings to ascertain the compensation to which he is entitled in respect of the land so taken or injuriously affected, by giving to the company notice in writing of the name of a person to be appointed as his arbitrator, the description of the land taken or injuriously affected, and the amount of compensation or damages claimed, and thereupon like proceedings shall be taken to ascertain such compensation or damages as are prescribed where the company commences proceedings.

Stating
amount
found pay-
able in
award.

(9) The arbitrators, besides awarding to the owner the amount which they find to be the value of the land, shall state what they find to be the total amount to be paid to compensate the owner, or for damages.

Duties of
arbitrators.

(10) The arbitrators, or any two of them, or the sole arbitrator, being sworn before a justice of the peace or a commissioner empowered to take affidavits, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation in such a way as they, or he, or a majority of them, deem best; and the majority of the arbitrators, at the first meeting after their appointment, or the sole arbitrator, shall fix a day on or before which the award shall be made, and may from time to time, with the consent of all parties, but not otherwise, extend such time: but no award shall be made or any official act done by the majority, except at a meeting held at a time and place of which the other arbitrator has had at least one clear day's notice, or to which some meeting at which the third arbitrator was present had been adjourned; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the arbitrator appointed by him, or whose appointment he required.

Notes of
evidence.

(11).—(a) The arbitrators or the sole arbitrator shall take down in writing the evidence brought before them or him, unless either party requires that it be taken by a stenographer: in which case a stenographer shall be named by the arbitrators or arbitrator, unless the parties agree upon one.

Steno-
grapher.

(b) The stenographer shall be sworn before the arbitrators, or before any one of them, before entering upon his duties.

His
expenses.

(c) The expense of such stenographer, if not determined by agreement between the parties, shall be taxed by the court or a judge thereof, and shall, in any case, form part of the costs of the arbitration.

(d) After making the award the arbitrators, or the sole arbitrator shall forthwith deliver or transmit by registered letter, at the request of either party in writing, the depositions, together with the exhibits referred to therein, and all papers connected with the reference except the award, to the Central Office at Osgoode Hall.

(12).—(a) If any arbitrator dies before the award is made, or is disqualified, or refuses or fails to act within a reasonable time, an arbitrator may be appointed in his stead.

All papers except award to be filed in court.

Death of arbitrator or failure to act.

(b) If such arbitrator was appointed by one of the parties, or by the judge on his nomination, he shall have the right to appoint the arbitrator in his stead.

(c) If such arbitrator was appointed by the judge, the arbitrator in his stead may be appointed by the judge, on the application of either party, on six days' notice to the other.

(d) If such arbitrator was appointed by the two arbitrators appointed by the parties, the arbitrator in his stead may be appointed by the remaining arbitrators.

(e) In a case not provided for by the foregoing provisions, the arbitrator may be appointed by the judge, on the application of either party, on six days' notice to the other.

(f) It shall not be necessary in any such case that the proceedings shall be recommended or repeated.

(13).—(a) Where the notice given improperly describes the lands or materials intended to be taken, or where the company decides not to take the lands or materials mentioned in the notice, it may abandon the notice and all proceedings thereunder, but shall be liable to the person notified for all damages or costs incurred by him in consequence of such notice and abandonment, which costs shall be taxed in the same manner as costs after an award.

Abandonment of proceedings.

(b) The company may, notwithstanding the abandonment of any former notice, give to the same or any other person notice for other lands or materials, or for lands or materials otherwise described.

(14) No award shall be invalidated by reason of any want of form or other technical objection, if the requirements of this Act have been substantially complied with, and if the award states clearly the sum awarded, and the land or other property, right or privilege for which such sum is to be the compensation; nor shall it be necessary that the person to whom the sum is to be paid be named in the award.

Awards not voided for want of form.

Appeals.

(15) Any party to the arbitration, may within one month after receiving a written notice from the arbitrators of the making of the award, appeal therefrom upon any question of law or fact to the Supreme Court, and upon the hearing of

Appeal to High Court from award on question of law or fact.

the appeal the court shall decide any question of fact upon the evidence taken before the arbitrators as in a case of original jurisdiction.

Procedure
on appeal.

Rev. Stat. c. 65.

Rev. Stat. c. 56.

Existing
practice
not affected.

Company
taking pos-
session to
take up
award on
notice.

(16) Upon such appeal the practice and proceedings shall be as nearly as may be the same as upon an appeal from an award under *The Arbitration Act*, subject to any Rules of Court made under that Act or under *The Judicature Act*.

(17) The right of appeal hereby given shall not affect the existing law or practice as to setting aside such awards.

(18) Where the company has taken possession of the land prior to the making of the award it shall, within seven days after receiving a written notice from the arbitrators of the making of the award, take up the same and deliver to the owner a copy thereof.

Company's right to possession.

Possession
may be
taken on
payment or
tender,
etc., of sum
awarded.

(19) Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon to the person entitled to receive the same, or upon the payment into court of the amount of such compensation in the manner herein-after mentioned, the award or agreement shall vest in the company the power forthwith to take possession of the land, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon.

Warrant of
possession.

(20) If any resistance or forcible opposition is made to the exercise by the company of any such power, the judge of the county or district court of the county or district in which the land lies, or a Judge of the Supreme Court shall, on or of to his satisfaction of such award or agreement, issue his warrant to the sheriff of the county or district, to put the company in possession and to put down such resistance or opposition.

Powers of
sheriff.

(21) The sheriff shall, in the execution of such warrant, take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and put the company into possession.

When
warrant
of posses-
sion may
issue be-
fore award.

(22) The warrant shall also be granted without the award or agreement, on affidavit to the satisfaction of the judge that the immediate possession of the land or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the railway with which the company is ready forthwith to proceed.

Procedure
upon appli-
cation for
such
warrant.

(23) The judge shall not grant any warrant under the next preceding subsection, unless

Notice.

(a) ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of

the land or the person empowered to convey the land or interested in the land sought to be taken or which may suffer damage from the taking of materials sought to be taken, or the exercise of the powers sought to be exercised, or the doing of the thing sought to be done, by the company; and

- (b) the company gives security to his satisfaction by payment into court of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration, and not less than double the amount mentioned in the notice served under subsection 1 of this section.

Deposit of compensation.

(24) The costs of any such application shall be in the discretion of the judge, and no part of such deposit or of any interest thereon shall be repaid, or paid to such company, or paid to such owner or person, without an order from the judge, which he may make in accordance with the terms of the award.

Costs of application.

(25) The compensation for any land which may be taken without the consent of the owner shall stand in the stead of such land; and any claim to or incumbrance upon the land, or any portion thereof, shall, as against the company, be converted into a claim to the compensation, or to a like proportion thereof, and the company shall be responsible accordingly whenever it has paid the compensation, or any part thereof, to a person not entitled to receive the same, saving always its recourse against such person.

When compensation to stand in the place of the land.

(26) When

- (a) the company has reason to fear any claim, mortgage or incumbrance; or
- (b) any person to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance; or
- (c) the person entitled to claim the compensation or the annual rent cannot be found, or is unknown to the company; or
- (d) for any other reason, the company deems it advisable,

Payment of compensation into court in some cases.

the company may, by leave of a Judge of the Supreme Court, pay such compensation or annual rent into court, with the interest thereon for six months, and with such further sum if such judge so directs, as may, in his opinion, be sufficient to cover the expenses of advertising and the costs that may be incurred in consequence of such payment into court, and may deliver to the Accountant of the Supreme Court a copy of the conveyance, or of the award or agreement if there is no conveyance.

Title.	(27) Such conveyance, award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned.
Notice and publication.	(28) A notice of such payment and delivery, in such form and for such time as a Judge of the Supreme Court appoints, shall be inserted in a newspaper published in the county or district in which the land is situate.
Contents of notice.	(29) Such notice shall state that the conveyance, agreement or award constituting the title of the company is obtained under the authority of this Act, and shall call upon all persons claiming an interest in or entitled to the land, or to any part thereof, to file their claims to the compensation or any part thereof.
Adjudication on claims.	(30) All such claims filed shall be received and adjudicated upon by the court, and the adjudication shall bar all claims to the land, or any part thereof, including dower as well as all mortgages and incumbrances upon the same.
Adjustment of compensation.	(31) The court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all persons interested as may be proper.
By whom cost to be paid.	(32) The costs of the proceedings in whole or in part, including the proper allowances to witnesses, shall be paid by the company or by any other person as the court may order.
When rebate of interest to be ordered.	(33) If the order for distribution, payment or investment is obtained within less than six months from the payment of the compensation, the court shall direct a proportionate part of the interest to be returned to the company;
Interest as compensation for delay, etc.	(34) If from any error, fault or neglect of the company an order is not obtained until after the six months, the court shall order the company to pay into court, as part of the compensation, the interest for such further period as the court deems just. 3-4 Geo. V. c. 36, s. 90.

Compensation to Owners of Lands Adjoining Highways.

Compensation to owners of lands adjoining highway.

91.—(1) Where a railway constructs its tracks along one side of a highway or operates over a highway or railway or street railway crossing by means of a bridge, or underneath a highway or railway or street railway crossing by means of a sub-way or tunnel, and, in the construction of the approaches to such bridge or tunnel, raises or depresses part of a highway the owner of any land adjoining the portion of the highway upon the side thereof upon which the tracks are so constructed or upon or along which the said bridge or sub-way or tunnel or approaches thereto are constructed shall, if by reason of such construction his land or the business carried on upon such land is thereby injured or in any way

depreciated in value, be entitled to receive compensation therefor from the company.

(2) The proceedings to obtain such compensation and to Procedure. determine the amount thereof shall, so far as applicable, be the same as that provided in this Act in the sections respecting the taking of land without the consent of the owner.

(3) Compensation for injury to, or depreciation of the Compensation where grade of highway unaltered. value of any such business or land may be awarded by the arbitrators, if, in their judgment, any such injury or depreciation is caused by the existence of the railway notwithstanding that the grade of the highway may not have been changed or altered.

(4) Not more than one award of damages shall be made Only one award. under this section in respect of the same land or business.

(5) This section shall not apply to such portions of any Saving. railway as are constructed on or before the 1st day of June, 1906, or which may be constructed under agreements existing at that date. 3-4 Geo. V. c. 36, s. 91.

Obtaining Stone, Gravel or Other Material.

92.—(1) Whenever

(a) any stone, gravel, earth, sand, water or other Obtaining materials for construction or operation. material is required for the construction, maintenance or operation of the railway, or any part thereof; or

(b) such materials so required are situate, or have Transport. been brought to a place, at a distance from the line of railway and the company desires to lay down the necessary tracks, spurs or branch lines, Tracks or conduits. water pipes or conduits, over or through any lands intervening between the railway and the land on which such materials are situate or to which they have been brought,

the company may, if it cannot agree with the owner of the Plan and description. land for the purchase thereof, cause an Ontario land surveyor to make a plan and description of the property or right of way, and shall serve upon each of the owners or occupiers of the land affected a copy of such plan and description, or of so much thereof as relates to the land owned or occupied by them respectively, duly certified by such surveyor or engineer.

(2) All the provisions of this Act shall, in so far as Provisions of this Act which apply. applicable, apply, and the powers thereby granted may be used and exercised to obtain the materials so required, or the right of way to the same, irrespective of the distance thereof; but the company shall not be required to submit any such plan for the sanction of the Board.

Title may
be acquired.

(3) The company may, at its discretion, acquire the land from which such materials are taken, or upon which the right of way thereto is located, for a term of years or permanently.

Arbitration.

(4) The notice of arbitration, if arbitration is resorted to, shall state the extent of the privileges and title required.

Tracks not
to be used
for other
purposes.

(5) The tracks, spurs or branch lines constructed or laid by the company under this section shall not be used for any purpose other than in this section mentioned, except by leave of the Board and subject to such terms and conditions as the Board may impose. 3-4 Geo. V. c. 36, s. 92.

Branch Lines and Switches and Sidings to Industries.

Power to
construct.

93.—(1) The company may, for the purpose of its undertaking, construct, maintain and operate branch lines, not exceeding in any one case six miles in length, from the main line of the railway or from any branch thereof.

Procedure.

(2) Before commencing to construct any such branch line the company shall

Plans, etc.

(a) make a plan, profile and book of reference, showing the proposed location of the branch line, with the particulars hereinbefore required as to plans, profiles and books of reference of the main line, and deposit the same, or such parts thereof as relate to each county or district through which the branch line is to pass, in the offices of the registrars of deeds for such counties or districts;

Notice of
application
to Board.

(b) upon such deposit, give four weeks' public notice of its intention to apply to the Board under this section, in some newspaper published in each county or district through which the branch line is to pass, or if there is no newspaper published in such county or district, then for the same period in the *Ontario Gazette*; but the Board may dispense with or shorten the time of such notice in any case in which it deems proper to do so; and

Material to
be sub-
mitted.

(c) after the expiration of the notice submit to the Board, upon such application, a duplicate of the plan, profile and book of reference so deposited.

Board may
authorize
branch line.

(3) The Board, if satisfied that the branch line is necessary in the public interest or for the purpose of giving increased facilities to business, and if satisfied with the location of such branch line and the grades and curves as shown on such plan, profile and book of reference, may, in writing, authorize the construction of the branch line in accordance with such plan, profile and book of reference or subject to such changes in location, grades or curves as the Board may direct.

(4) Such authority shall limit the time, not exceeding Time for construction. two years, within which the company shall construct and complete such branch line.

(5) There shall be deposited with the Board such authority Deposit of material with Board. and the duplicate of such plan, profile and book of reference, together with such papers and plans as are necessary to show and explain any changes directed by the Board, under the provisions of this section.

(6) The company shall deposit in the registry offices of And in registry offices. the counties or districts through which the branch line is to pass copies, certified as such by the secretary, of the authority, and of the papers and plans showing the changes directed by the Board.

(7) No branch line shall be No extension allowed.

(a) extended under the foregoing provisions for the construction of branch lines; or

(b) constructed so as to form, in effect, an extension of the railway beyond the termini mentioned in the special Act.

(8) Upon compliance with the requirements of the next Provisions applicable. seven preceding subsections all the other provisions of this Act, except those relating to the sanction by the Board of the plan, profile and book of reference of the railway and the deposit thereof with the Board and in the offices of the registrars of deeds for the counties or districts through which the railway is to pass, shall, in so far as applicable, apply to the branch lines so authorized and to the land to be taken for them. 3-4 Geo. V. c. 36, s. 93.

94.—(1) Where any industry or business is established or Spur or branch line required by owner of any industry. intended to be established within six miles of the railway, and the owner of such industry or business, or the person intending to establish the same, is desirous of obtaining railway facilities in connection therewith, but cannot agree with the company as to the construction and operation of a spur or branch line from the railway thereto, the Board may, on the application of such owner or person, and upon being satisfied of the necessity for such spur or branch line in the interests of trade, order the company to construct, maintain and operate such spur or branch line, and may direct such owner or person to deposit in a chartered bank such sum as is by the Board deemed sufficient or necessary to defray all expenses of constructing and completing the spur or branch line in good working order, including the cost of the right of way, incidental expenses and damages. Owner to deposit cost.

(2) The amount so deposited shall, from time to time, Payment to the company. be paid to the company, upon the order of the Board, as the work progresses.

Repayment
to owner
by rebate
on tolls.

(3) The aggregate amount so paid by the applicant in the construction and completion of the spur or branch line shall be repaid or refunded to him by the company by way of rebate, to be determined and fixed by the Board, out of or in proportion to the tolls charged by the company in respect of the carriage of traffic for the applicant over the spur or branch line.

Lien to
owner
meantime.

(4) Until so repaid or refunded the applicant shall have a special lien for such amount upon the spur or branch line, to be reimbursed by such rebate.

Discharge
of lien.

(5) Upon repayment by the company to such applicant of all payments made by him upon such construction and completion, the spur or branch line, right of way, and equipment shall become the absolute property of the company free from any such lien.

Operation
of branch
to be
regulated
by Board.

(6) The operation and maintenance of the said spur or branch line by the company shall be subject to and in accordance with such order as the Board may make with respect thereto having due regard to the requirements of the traffic thereon, and to the safety of the public and of the employees of the company.

Construction
on applica-
tion of
municipal
corporation.

(7) A municipal corporation may apply for the construction and maintenance of a spur or branch line for providing facilities in connection with a railway for the purpose of any industry, business or market established within six miles of the railway, and the provisions of the foregoing subsections shall apply as if the corporation were the person by whom the industry or business was established.

Cost in
such case.

(8) Where the application is made by a municipal corporation, the Board may require the corporation to pay to the company the cost of construction and completion of the spur or branch line, or may require part of it to be paid by the corporation and part of it to be repaid or refunded by way of rebate so provided by subsection 3.

Provisions
applicable.

(9) All the provisions of this Act respecting the construction of spur or branch lines shall apply to any spur or branch line constructed under this section. 3-4 Geo. V. c. 36, s. 94.

Purchase of more land than necessary.

When com-
pany may
purchase.

95.—(1) Whenever the company can purchase a larger quantity of land from any particular owner at a more reasonable price, on the average, or on more advantageous terms than it could obtain the portion thereof which it may take from him without his consent it may purchase such larger quantity.

Sale of
surplus land.

(2) The company may sell and dispose of any part of the land so purchased which may be unnecessary for the undertaking. 3-4 Geo. V. c. 36, s. 95.

Snow Fences, Etc.

96.—(1) Every company may, on and after the first day of November in each year, enter into and upon any lands of His Majesty, or of any person, lying along the route or line of the railway, and erect and maintain snow fences thereon, subject to the payment of such land damages, if any, actually suffered and thereafter established, in the manner provided by law with respect to such railway. Erection of snow fences. Compensation.

(2) Every snow fence so erected shall be removed on or before the first day of April then next following. 3-4 Geo. V. c. 36, s. 96. Removal

Use of Adjacent Lands during Construction.

97.—(1) The company, either for the purpose of constructing or repairing its railway, or for the purpose of carrying out the requirements of the Board, or in the exercise of the powers conferred upon it by the Board, may enter upon any land which is not more than six hundred feet distant from the centre of the located line of the railway, and may occupy such land as long as is necessary for such purposes; and all the provisions of law at any time applicable to the taking of land by the company, and its valuation, and the compensation therefor, shall apply to the case of any land so required. Use of adjacent lands.

(2) Before entering upon any land for such purposes the company shall, if the consent of the owner is not obtained, pay into the Supreme Court If owner does not consent.

(a) such sum as is, after two clear days' notice to the owner of the land, or to the person empowered to convey the same, or interested therein, fixed by a judge of such court; and, Sum to be deposited.

(b) interest for six months upon the sum so fixed. Interest.

(3) Such deposit shall be retained to answer any compensation which may be awarded the person entitled thereto, and may, upon order of a judge of such court, be paid out to such person in satisfaction *pro tanto* of such award, and the surplus, if any thereafter remaining, shall, by order of the judge, be repaid to the company. As security for compensation.

(4) Any deficiency in such deposit to satisfy such award shall be forthwith paid by the company to the person entitled to compensation under such award. 3-4 Geo. V. c. 36, s. 97. Deficiency to be paid.

CONSTRUCTION AND EQUIPMENT.

Gauge.

98. The tracks of every railway, the construction of which is hereafter commenced, shall be of the standard gauge Gauge.

of four feet eight and one-half inches, unless the Board upon the application of the company otherwise orders. 3-4 Geo. V. c. 36, s. 98.

Equipment and Appliances for Trains.

Modern and
efficient.

99.—(1) Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means

Communica-
tion.

(a) to provide immediate communication between the conductor, while in any car of any passenger train, and the engine driver or motorman;

Brakes.

(b) to check at will the speed of the train, and bring the same safely to a standstill, as quickly as possible, and, except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers, if any, on the train; and

Couplers

(c) to securely couple and connect the cars composing the train, and to attach the engine to such train, with couplers which couple automatically by impact and which can be uncoupled without the necessity of men going in between the ends of the cars.

100.—

(2) Such apparatus, appliances and means for the checking of speed or the stopping of any train shall include a power or drive wheel brake and appliances for operating the train brake system upon the locomotive.

101.—

(3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer or motorman on the locomotive drawing such train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakemen to use the common hand brake for that purpose.

Continuous,
instantaneous
action

(4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine driver, motorman or any brakeman, and the brakes must be self-applying in the event of any failure in the continuity of their action.

Box freight
cars.

102.—All box freight cars of the company shall, for the security of railway employees, be equipped with

Outside
ladders.

(a) outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached; and

(b) hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladders: Hand grips.

and if there is at any time any other improved side attachment which, in the opinion of the Board, is better calculated to promote the safety of the train hands the Board may require any of such cars, not already fitted with the side attachments by this section required, to be fitted with such improved attachment. Other improvements.

(6) The running-board on the roof of each box freight car of the company shall, at all times, be of sufficient thickness and strength, and not less than thirty inches in width, and shall, with proper and safe supports, extend the whole length of the car and beyond each end thereof to a point not more than two inches less than that to which the dead-wood or bumpers at each end of such car likewise extend. Running boards.

(7) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines, in accordance with any standard from time to time adopted by competent railway authorities. Height of draw-bars.

(8) The Board may upon good cause shown, by general regulation, or in any particular case, from time to time grant delay for complying with the provisions of this section. Delay may be allowed for compliance.

(9) The Board may, subject to the requirements of the preceding provisions of this section, upon application, order that any apparatus or appliance specified in such order shall, when used upon the train in the manner and under circumstances in such order specified, be deemed sufficient compliance with such provisions, but the Board shall not by such order allow any exception to or modification of the requirements of this section. Board may determine what equipment sufficient.

(10) The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves. Oiling.

(11) Every passenger, baggage, mail and express car, which is owned or regularly used on any railway in Ontario, in which heating apparatus is placed, shall be provided with such safeguards against fire as the Board shall in writing from time to time approve. Safeguards against fire in cars.

(12) Every company which fails to comply with any of the provisions of this section shall forfeit to His Majesty a sum not exceeding \$200 for every day during which such default continues, and shall as well be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to notwithstanding any agreement to the contrary. Penalty for non-compliance. Damages. Agreements to contrary invalid. 3-4 Geo. V. c. 36, s. 99.

Locomotives
to have
bells or
whistles.

100. Every locomotive, engine and electric locomotive shall be furnished with a bell of at least thirty pounds weight or with a steam or air whistle. 3-4 Geo. V. c. 36, s. 100.

Gongs and
whistles.

101. Every car which contains a motor or which runs at the head of a train shall be furnished with a gong, to be approved by regulation of the Board, or with an air whistle. 3-4 Geo. V. c. 36, s. 101.

Protection
of conduc-
tors and
motormen.

102.—(1) Every car in use for the transportation of passengers in November, December, January, February, March and April in each year, which while in motion requires the constant care or service of a motorman upon the platforms of the car or upon one of them, shall have its platforms so enclosed as to protect the motorman from exposure to wind and weather in such manner as the Board shall approve.

Where no
rear vesti-
bules.

(2) Every company operating its cars without rear end vestibules shall allow the conductors employed on such cars to stand inside the cars during such period so far as is consistent with the proper performance of their duties.

Compartment
for
motorman.

(3) Every motor car built after the passing of this Act, designed for carrying passengers upon a railway operated by electricity, shall be so constructed that the motorman having the control of the motive power shall be stationed in a compartment into which no person shall be admitted save the officers or employees of the company on duty; and no person other than such officers or employees shall be permitted to occupy any portion of such compartment or vestibule.

Penalty.

(4) Any company offending against the provisions of this section shall incur a penalty of \$100 for each offence and any person offending against the provisions of this section shall incur a penalty of not less than \$2 or more than \$50, recoverable under *The Ontario Summary Convictions Act*.

Application.

(5) This section shall apply only to railways operated by electricity, street railways and incline railways. 3-4 Geo. V. c. 60, s. 102.

Power to
modify re-
quirements
of section 102.

103. The Board may, by order applicable either generally or in one or more particular cases, alter or modify any of the requirements of section 102. 3-4 Geo. V. c. 36, s. 103.

Powers of Board as to Equipment and Service.

Board may
make regula-
tions re-
specting—

104. —(1) The Board may make orders and regulations

Speed of
trains.

(a) limiting the rate of speed at which railway trains and locomotives may be run in any city, town or village, or in any class of cities, towns or villages; and prescribing, if it thinks fit, certain maximum rates of speed within certain described

portions of any city, town or village, and different rates of speed in other portions thereof;

- (b) with respect to the use of the steam whistle within any city, town or village or any portion thereof; Use of steam whistle.
- (c) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of employees while passing from one car to another; Passing from car to car.
- (d) for the coupling of cars; Coupling.
- (e) requiring proper shelter to be provided for all employees when on duty; Shelter for employees.
- (f) with respect to the use on any engine of nettings, screens, grates and other devices, and the use on any engine or car of any appliances and precautions, and generally in connection with the railway respecting the construction, use and maintenance of any fire-guard or works which may be deemed by the Board necessary and most suitable to prevent, as far as possible, fires from being started or occurring upon, along or near the right of way of the railway. Devices to avoid fires.
- (g) requiring the company to establish and maintain an efficient and competent staff of fire-rangers, equipped with such appliances for fighting or preventing fires from spreading as the Board may deem proper, and to provide such rangers with proper and suitable equipment to enable them to move from place to place along the line of railway with all due speed; Fire-rangers.
- (h) requiring the company to maintain an efficient patrol of the line of railway and other lands in the vicinity thereof to which fires may spread, and generally to define the duties of the company and such fire-rangers in respect thereof; Patrol of railway.
- (i) requiring the company to make returns of the names of fire-rangers in its employ in the performance of the above duties, and of the places or areas in which they are from time to time engaged; Returns.

For the purpose of fighting and extinguishing fires, the fire-rangers may follow the fires which spread from the railway to, over and upon the lands to which they may spread. Powers of rangers.
- (j) with respect to the rolling stock, apparatus, cattle-guards, fenders, brakes, sanders, and vestibules, steps, seats, heating, lighting, open or closed cars, appliances, signals, methods, devices, structures and works to be used upon the railway, so as to For protection generally.

provide means for the due protection of property, the employees of the company, and the public;

Other matters.

(4) with respect to any matter, act or thing which, by this Act or the special Act is sanctioned, required to be done, or prohibited;

Generally.

(l) generally for carrying this Act into effect.

Application of orders.

(2) Any such orders or regulations may be made to apply to any particular locality, to any railway or section, or portion thereof, and the Board may exempt any railway or section or portion thereof, from the operation of any such order or regulation, for such time or during such period as the Board deems expedient.

Penalties.

(3) The Board may, by regulation, provide penalties, when not already provided in this Act, to which every company, person or municipal corporation offending against any regulation made under this section shall be liable, but no such penalty shall exceed \$100 for each offence, and every such penalty shall be recoverable under *The Ontario Summary Convictions Act*, or by action at the suit of the Attorney-General as the Board may, by regulation, determine.

Saving.

(4) The imposition of any such penalty shall not lessen or affect any other liability which any company, person or municipal corporation may have incurred.

Application of regulations.

(5) All orders or regulations under this section may be made to apply to any railways, whether operated by steam, electricity or other motive power, but no such order or regulation shall increase or extend, lessen or impair any obligation or duty resting upon, or any privilege or franchise enjoyed by the company under the special Act or under any agreement. 3-4 Geo. V. c. 36, s. 104.

Jurisdiction of Board over railway.

105.—(1) Whenever the Board is of opinion after hearing had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances or service of any railway company, street railway company, or incline railway company in respect to the transportation of persons, freight or property are unjust, unreasonable, unsafe, improper or inadequate, it shall determine the just, reasonable, safe, proper and adequate regulations, practices, equipment, appliances or service thereafter to be in force, to be observed and to be used in such transportation of persons, freight, and property, and fix and prescribe the same by order to be served upon the company to be bound thereby; and it shall be the duty of the company to observe and obey every requirement of every such order and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by its officers, agents and employees.

As to regulations, equipment and service.

(2) Whenever, in the opinion of the Board, repairs or improvements to or changes in any tracks, road-beds, switches, terminals or terminal facilities, motive power or any other property or device used by any railway company or street railway company, or incline railway company, in or in connection with the transportation of passengers, freight or property, ought reasonably to be made thereto in order to promote the security or convenience of the public or of the employees of the company or to secure adequate service or facilities for the transportation of passengers, freight or property, the Board, upon a hearing had either upon its own motion or after complaint, shall make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every company shall make all repairs, improvements, changes and additions required of it by any such order within the time and in the manner specified in the order.

Tracks
and motive
power.

(3) Whenever in the opinion of the Board, a street railway company or incline railway company

Jurisdiction
over street
railways or
incline
railways.

- (a) does not run cars enough or possess or operate motive power enough reasonably to accommodate the passengers transported or offered for transportation to it,
- (b) does not run its cars with sufficient frequency or at a reasonably proper time,
- (c) does not run any car upon a reasonable time schedule for the run,
- (d) does not provide reasonable routes and services for the accommodation of the public,
- (e) does not provide for stopping its cars to take on and discharge its passengers at convenient points or at a sufficient number of points,
- (f) does not sufficiently or properly heat and light any of its cars or keep the same clean, or
- (g) operates any car which is not in proper repair and condition,

the Board may, after a hearing had either on its own motion or upon complaint, make an order directing the company to increase the number of its cars or its motive power, to change the time for starting any car, to change the time schedule for the run of any car, to run cars and provide a sufficient service upon any route that the Board may deem necessary for the accommodation of the public, to sufficiently light and heat its cars and keep them clean, to stop its cars to take on and discharge passengers at such points as the Board may deem proper, and may make any other order which the Board may deem necessary to accommodate and transport the pas-

Improve-
ment of
service.

sengers transported or offered for transportation, and the company shall be bound to obey every such order according to the exigency thereof.

Powers
additional
to present
powers.

(4) The powers conferred by the three next preceding subsections upon the Board shall be in addition to the powers conferred upon it elsewhere in this Act.

Enforce-
ment of
orders.

(5) The Board shall have the like power and authority for the enforcement of any order made by it under the provisions of such three subsections as it possesses for the enforcement of its orders under the other provisions of this Act, and especially the power and authority conferred by section 26 of *The Ontario Railway and Municipal Board Act*, and 260 of this Act.

Rev. Stat.
c. 186.

Application
of section.

(6) The provisions of this section shall apply notwithstanding any agreement between the company and a municipal corporation or the provisions of any general or special Act relating to the agreement or to the company.

Power to
require
construction,
maintenance
and
operation of
additional
lines.

(7) The powers conferred by this Act in the case of street railways wholly or partly in cities having a population of one hundred thousand or over shall include, but in the case of other street railways shall not include, the power to require the company owning or operating the street railway to construct, maintain and operate additional lines and extensions of existing lines, in, along and upon any street or highway or part of a street or highway upon which the company has authority to construct, maintain and operate its railway.

Limitation
of Board's
power.

(8) The Board shall not have power or authority to require or to permit a railway company, street railway company, or incline railway company, without the consent of the corporation of the municipality, to construct or lay down within the municipality more tracks or lines than, under its agreement with the corporation or the by-law of the council of the corporation of the municipality by which authority to construct the railway upon any such street or highway or part of a street or highway was conferred, it has authority to construct or lay down, but the agreement or by-law shall govern as to the number and location of the tracks and the streets or highways upon which the railway may be constructed.

Application
of agree-
ment.

(9) All tracks, switches, additional lines and extensions of existing lines which are, have been or shall be hereafter constructed and operated by a street railway company or incline railway company, in pursuance of an order of the Board, shall nevertheless be deemed to have been constructed under the authority, and shall be subject to all the provisions of the agreement between the company and the corporation of the municipality, or the by-law of the council thereof, by which authority to construct the railways was conferred upon the company. 3-4 Geo. V. c. 36, s. 105.

106. Railways operated by electricity shall stop at such places, in addition to those fixed by the by-laws or regulations of the company, as the Board may from time to time, by resolution, direct and order. 3-4 Geo. V. c. 36, s. 106. Stopping places.

107.—(1) Open or summer cars, for use upon a railway operated by electricity or upon a street railway, shall be so arranged or constructed that the seats for passengers will face the front of the car when in motion, and an aisle sufficiently wide to allow the passage of the conductor shall be provided in every such car, and no open or summer cars shall be used unless so arranged. Open cars.

(2) The side steps on such cars shall be so constructed, if in the opinion of the Board it is practicable, that passengers will be prevented from standing upon the same while the car is in motion. Side steps.

(3) The Board may relieve a company from the obligation imposed by subsection 1 as to any route upon which the space between the tracks, commonly called the devil strip, is not sufficiently wide to permit cars so arranged or constructed to be used. Exception.

(4) In all cases of dispute between a railway or street railway company and a municipal corporation or any person making complaint to the Board as to sufficiency of width, practicability of construction of cars or as to any other matter or thing mentioned in this section, the order of the Board shall be final and shall not be subject to appeal, and any order made by the Board as to any such matter shall be carried out and fulfilled by the company and the municipal corporation or either or both of them according to its terms. Disputes to be settled by Board. Finality.

(5) No passenger shall stand or be permitted to stand upon the side steps of any car for a greater length of time than is necessary to enable him to enter or leave the same. Passengers not to stand on side steps.

(6) For every contravention of subsection 5, the person offending shall incur a penalty of not less than \$2 or more than \$10, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 107. Penalty. Rev. Stat. c. 90.

THE ROAD BED AND ADJACENT LANDS.

Frogs, Packing, etc.

108.—(1) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch, where such spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail. In what spaces.

(2) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside Idem.

of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches.

Height of.

(3) Such packing shall not reach higher than to the under-side of the head of the rail.

Of what
to consist.

(4) Such packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and, where by this section any space is required to be filled in on any railway, shall extend to within one and a half inch of the crown of the rails in use, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

Board may
regulate.

(5) The Board may, notwithstanding the requirements of this section, allow the filling and packing therein mentioned to be left out from the month of December to the month of April in each year, both months included, or between any such dates as the Board, by regulation or in any particular case, determines. 3-4 Geo. V. c. 36, s. 108.

Drainage.

Ditches and
drains.

108.—(1) The company shall, in constructing the railway, make and maintain suitable ditches and drains along each side of and across and under the railway, to connect with ditches, drains, drainage works and watercourses upon the land through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, and so that the then natural, artificial, or existing drainage of the land shall not be obstructed or impeded by the railway.

(2) Whenever

If drainage
insufficient.

(a) any land is injuriously affected by reason of the drainage upon, along, across, or under the railway being insufficient to drain and carry off the water from such land; or

Or municipi-
pality
desires.

(b) any municipal corporation or landowner desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across, or under the railway or any works or land of the company

Board may
order.

the Board may, upon the application or complaint of the municipal corporation or landowner, order the company to construct such drainage or lay such pipes, and may require the applicant to submit to the Board a plan and profile of the portion of the railway to be affected, or may direct an inspecting engineer, or such other person as it deems advisable to appoint, to inspect the locality in question, and, if expedient, there to hold an inquiry as to the necessity or requirements for such drainage or pipes, and to make a full report thereon to the Board.

(3) The Board may upon such report, or in its discretion, Terms and conditions. order how, where, when, by whom and upon what terms and conditions such drainage may be effected, or pipes laid, constructed and maintained, having due regard to all proper interests.

(4) An order of the Board shall not be required in cases When order not required. in which water pipes or other pipes are to be laid or maintained under the railway, with the consent of the railway company, in accordance with any general regulations, plans or specifications adopted or approved by the Board for such purpose. 3-4 Geo. V. c. 36, s. 109.

110.—(1) Whenever, by virtue of any Act, proceedings Drainage proceedings under Provincial Acts. may be had or taken by any municipal corporation or landowner for any drainage, or drainage works, including the construction, enlargement, improvement or extension of any ditch or watercourse upon or across the property of any landowner, such proceedings may be had or taken by such municipal corporation or landowner for drainage or drainage works upon and across the railway and land of the company, in the place of the proceedings before the Board provided for by the next preceding section.

(2) Thereupon such Act shall apply to the land of the company upon or across which such drainage or other work is required, subject, however, to any previous order or direction of the Board made or given with respect to drainage of the same land, and the company shall have the option of constructing the portion of any drain or drainage work required to be constructed upon, along, under or across its railway or land. Application of such Acts.

(3) In the event of the company not exercising such option, Where delay. and completing such work within a reasonable time and without any unnecessary delay, such work may be constructed or completed in the same manner as any other portions of such work are to be constructed under the provisions of such Act.

(4) Notwithstanding anything in this section, no such drain or drainage works shall be constructed or reconstructed upon, along, under or across the railway or land of the company until the character of such works or the specifications or plans thereof have been first submitted to and approved of by the Board. Approval of Board.

(5) The proportion of the cost of drain or drainage works Cost of work. upon, along, under or across the railway or land of the company to be borne by the company shall in such cases be based upon the increase of cost of such work caused by the construction and operation of the railway. 3-4 Geo. V. c. 36, s. 110.

[See also *The Municipal Drainage Act, R.S.O. c. 198.*]

Canals, Ditches, Wires, etc.

When
canals,
pipes or
wires
require to
be carried
across a
railway.

Applica-
tion to
Board.

Plan and
profile.

Terms of
order

111.—(1) When any person having authority to create, develop, enlarge or change any water power, or any electrical or power development by means of water, or to develop and operate mineral claims or mines, desires for any such purpose to carry any canal, tunnel, flume pipe, ditch or wire across, over or under any railway, and is unable to agree with the railway company as to the terms and conditions upon which the same may be so carried over, under or across the said railway, an application may be made to the Board for leave to construct the necessary works.

(2) Upon such application the applicant shall submit to the Board a plan and profile of the railway at the point where it is desired to make such crossing, and a plan or plans showing the proposed method of carrying such canal, tunnel, flume pipe, ditch or wire across, over or under the said railway, and such other plans, drawings and specifications as the Board in any case or by any regulation requires.

(3) The Board may, by order, grant such application on such terms and conditions as to protection and safety, payment of compensation or otherwise, as it deems just and proper, may change the plans, profiles, drawings and specifications so submitted, and fix the place and mode of crossing, and may give directions as to the method in which the works are to be constructed and as to supervision of the construction of the works and the maintenance thereof, and may order that detailed plans, drawing and specifications of any works, structures, equipment or appliances required shall, before construction or installation, be submitted to and approved by the Board. 3-4 Geo. V. c. 36, s. 111.

Farm Crossings.

Farm cross-
ings.

Care of
live stock.

Necessary
crossings
may be
ordered by
Board.

112.—(1) Every company shall make crossings for persons across whose land the railway is carried convenient and proper for the crossing of the railway for farm purposes.

(2) Live stock in using such crossing shall be in charge of some competent person who shall take all reasonable care and precaution to avoid accidents. 3-4 Geo. V. c. 36, s. 112.

113.—(1) The Board may, upon the application of any landowner, order the company to provide and construct a suitable crossing across the railway wherever in any case the Board deems it necessary for the proper enjoyment of his land, on either side of the railway, and safe in the public interest.

Details.

(2) The Board may order and direct how, when, where, by whom, and upon what terms and conditions, such crossing shall be constructed and maintained. 3-4 Geo. V. c. 36, s. 113.

Fences, Gates and Cattle-guards.

114.—(1) The company shall erect and maintain upon the railway Fences, etc., to be kept up.

(a) fences of a minimum height of four feet six inches on each side of the railway; Height and place.

(b) swing gates in such fences, of the height of the fence, with proper hinges and fastenings, at farm crossings: provided that sliding or hurdle gates, constructed before the 14th day of May, 1906, may be maintained; and Gates.

(c) cattle-guards, on each side of the highway, at every highway crossing at rail-level with the railway. Cattle-guards.

(2) The railway fences at every such crossing shall be turned into the respective cattle-guards on each side of the highway. Fences to be turned into cattle guards.

(3) Subsections 1 and 2 shall not apply where a railway is being operated along a public highway. Except along highway.

(4) Such fences, gates and cattle-guards shall be suitable and sufficient to prevent cattle, horses and other animals from getting on the railway lands. Nature of fences, etc.

(5) The Board may, upon application made to it by the company, relieve the company, temporarily or otherwise, from erecting and maintaining such fences, gates and cattle-guards, where the railway passes through any locality in which, in the opinion of the Board, such works and structures are unnecessary. Exemption by Board.

(6) Where the railway is being constructed through enclosed lands it shall be the duty of the company to take effective measures to prevent cattle or other animals escaping from or getting upon such enclosed lands or upon the property of the company by reason of any act or thing done by the company, its contractors, agents or employees. Where lands are enclosed.

(7) The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed when not in use. 3-4 Geo. V. c. 36, s. 114. Duty of users to close gates.

115. Where the railway passes alongside of and immediately adjacent to a public highway the company shall not be required to erect and maintain a fence between the company's land and the highway unless the Board otherwise orders or directs; but where the railway is diverted from alongside of the highway the company shall erect and maintain cattle-guards at the point of diversion, and the railway fences at such point shall be turned into the cattle-guards. 3-4 Geo. V. c. 36, s. 115. Fencing line adjoining highway.

Bridges, Tunnels and other Structures.

Headway
in tunnels
and bridges.

116.—(1) Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and maintained as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beam, member, or portion of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder.

Alteration
of existing
structures.

(2) The Board may, if necessary, require any existing bridge, tunnel or other erection or structure to be reconstructed or altered, within such time as it may order, so as to comply with the requirements mentioned in the last preceding subsection; and any such bridge, tunnel, or other erection or structure when so reconstructed or altered shall thereafter be maintained accordingly.

Space.

(3) Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the 14th day of May, 1906, shall in no case be less than twenty-two feet six inches.

Where
structures
not owned
by company.

(4) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company, and upon notice to all parties interested, or without any application may make such order, allowing or requiring such raising, reconstruction or alteration, and upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

What
may be
exempted.

(5) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which no trains, except such as are equipped with air brakes, are run.

Penalty for
default.

(6) Every company or owner shall incur a penalty not exceeding \$50 for each day of wilful neglect, omission or refusal to obey the provisions of this section. 3-4 Geo. V. c. 36, s. 116.

When
approval
of Board
required for
alterations
in bridges, etc.

117.—(1) The company shall not commence the construction or reconstruction of or any material alteration in any bridge, tunnel, viaduct, trestle, or other structure, through, over, or under which the company's trains are to pass, the span, or proposed span or spans, or length of which exceeds eighteen feet, until leave therefor has been obtained from the Board, unless such construction, reconstruction, or alteration is made in accordance with standard specifications and plans approved by the Board.

Application
therefor and
material.

(2) Upon any application to the Board for such leave, the company shall submit to the Board the detail plans, profiles,

drawings and specifications of any such work proposed to be constructed, or reconstructed, and such other plans, profiles, drawings and specifications as the Board may, in any case or by regulation, require.

(3) Upon any such application the Board may

Powers of
Board.
Terms.

(a) make such order with regard to the construction of such work, and upon such terms and conditions as it deems expedient;

(b) make alterations in the detail plans, profiles, drawings and specifications so submitted;

Alterations.

(c) give directions respecting the supervision of any such work; and

Supervision.

(d) require that such other works, structures, equipment, appliances and materials be provided, constructed, maintained, used, and operated, and that such measures be taken, as, under the circumstances of each case, may appear to the Board best adapted for securing the protection, safety and convenience of the public.

Other
works.

(4) Upon such order being granted the company shall be authorized to construct such works in accordance therewith.

Company
may con-
struct.

(5) Upon the completion of any such work the company shall, before using or operating the same, apply to the Board for an order authorizing such use or operation, and the Board may grant such order if it is satisfied that its orders and directions have been carried out, and that such work may be used or operated without danger to the public, and that the provisions of this section have been complied with. 3-4 Geo. V. c. 36, s. 117.

Leave of
Board author-
izing
operation.

Railways along or across Highways.

118.—(1) Subject to the provisions of this Act respecting the operation of railways along highways, and subject to the company, not being a street railway company, making such compensation to adjacent or abutting landowners whose lands are injuriously affected, whether structurally or otherwise, by the construction or operation of the railway as the Board deems proper, the railway of the company may be carried upon, along, or across an existing highway upon leave therefor having been first obtained from the Board as hereinafter authorized; but the Board shall not grant leave to any company to carry any street railway or tramway, or any railway operated or to be operated as a street railway or tramway, along any highway which is within the limits of any city or town until the company has first obtained consent therefor by a by-law of such city or town.

Railway on
highway.

Consent of
municipality.

Highway
to be
kept open.

(2) The company shall, before obstructing any such highway by its works, turn the highway so as to leave an open and good passage for carriages, and on completion of the works shall restore the highway to as good a condition as it was originally in.

Penalty.

(3) Every company which contravenes the provisions of this section shall incur a penalty of not less than \$40 for each such contravention. 3-4 Geo. V. c. 36, s. 118.

Variation of
inch be-
tween rail
and levels
of highways
permitted.

119. Whenever the railway crosses any highway at rail-level, whether the level of the highway remains undisturbed or is raised or lowered to conform to the grade of the railway, the top of the rail may, when the works are completed, unless otherwise directed by the Board, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction. 3-4 Geo. V. c. 36, s. 119.

Deposit of
plan with
Board.

120.—(1) Upon any application for leave to construct a railway upon, along or across any highway, or to construct a highway along or across any railway, the applicant shall submit to the Board a plan and profile showing the portions of the railway and highway affected.

Powers of
Board.

(2) The Board may, by order, grant such application in whole or in part and upon such terms and conditions as to protection, safety and convenience of the public as the Board deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, or that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of the granting of the application in whole or in part in connection with the crossing applied for, or arising or likely to arise in respect thereof in connection with any existing crossing.

Provisions
as to taking
land and
compensation.

(3) When the application is for the construction of the railway upon, along or across a highway, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

Supervision.

(4) The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision.

Details to
be approved
by Board.

(5) When the Board orders the railway to be carried over or under the highway, or the highway to be carried over or under the railway, or any diversion temporarily or perman-

ently of the railway or the highway, or any works to be executed under this section, the Board may direct that detailed plans, profiles, drawings and specifications be submitted to the Board.

(6) The Board may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section. 3-4 Geo. V. c. 36, s. 120. Regulations by Board.

121. The Board may order any company to erect over its railway at or near, or in lieu of any highway crossing at rail level, a foot bridge or foot bridges for the purpose of enabling persons passing on foot along such highway to cross the railway by means of such bridge or bridges. 3-4 Geo. V. c. 36, s. 121. Foot bridges.

122. The highway at any overhead railway crossing shall not at any time be narrowed by means of any abutment or structure to an extent less than twenty feet, nor shall the clear headway from the surface of the highway to the centre of any overhead structure, constructed after the 14th day of May, 1906, be less than fourteen feet, unless otherwise directed or permitted by the Board. 3-4 Geo. V. c. 36, s. 122. width of highway and height of overhead railway crossings.

123.—(1) Where a railway is already constructed upon, along or across any highway the Board may, upon its own motion, or upon complaint or application by or on behalf of the Crown, or any municipal or other corporation, or any person aggrieved, order the company to submit to the Board, within a specified time, a plan and profile of such portion of the railway and may cause inspection of such portion and may inquire into and determine all matters and things in respect of such portion, and the crossing, if any, and may make such order as to the protection, safety and convenience of the public as it deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, and that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of such portion or crossing, if any, or any other crossing directly or indirectly affected. Powers of Board as to existing crossings.

(2) When the Board of its own motion, or upon complaint or application, makes any order that a railway be carried across or along a highway, or that a railway be diverted, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board. Provisions as to taking land and compensation.

Apportionment of cost of changes.

(3) Notwithstanding anything in this Act, or in any other Act, the Board may, subject to the provisions of section 124 of this Act, order what portion, if any, of the cost is to be borne respectively by the company, municipal or other corporation, or person in respect of any order made by the Board under this or the preceding section, and such order shall be binding on and enforceable against any railway company, municipal or other corporation or person named in such order. 3-4 Geo. V. c. 36, s. 123.

Railways hereafter constructed to provide for safety of public.

124. Where a railway is constructed after the passing of this Act the company shall, at its own cost and expense, unless and except as otherwise provided by agreement, approved of by the Board, between the company and a municipal or other corporation or person, provide, subject to the order of the Board, all protection, safety and convenience for the public in respect of any crossing of a highway by the railway. 3-4 Geo. V. c. 36, s. 124.

All structures must be safely constructed and maintained.

125. Every structure by which any railway is carried over or under any highway, or by which any highway is carried over or under any railway, shall be so constructed and, at all times, be so maintained as to afford safe and adequate facilities for all traffic passing over, under or through such structure. 3-4 Geo. V. c. 36, s. 125.

Inclination of highway.

126. (1) The inclination of the ascent or descent, as the case may be, of any approach by which any highway is carried over or under any railway, or across it at rail level, shall not, unless the Board otherwise directs, be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach.

Fencing approaches.

(2) A good and sufficient fence, at least four feet six inches in height from the surface of the approach or structure, shall be made on each side of such approach, and of the structure connected with it. 3-4 Geo. V. c. 36, s. 126.

Signboards at level crossings.

127. Signboards at every highway crossed at rail level by any railway shall be erected and maintained at each crossing, and shall have the words "Railway Crossing" painted on each side thereof, in letters at least six inches in length, and every company which neglects to comply with the requirements of this section shall incur a penalty not exceeding \$10 recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 127.

Penalty.

Rev. Stat. c. 90.

Railway may be required to repair any level crossing out of repair.

128. (1) Where a level crossing on any railway is out of repair the head of the municipality, under the jurisdiction of whose council the highway is, may serve a notice upon the company in the usual manner requiring the repair to be forthwith made; and if the company does not forthwith make the same the head of the municipality may transmit a

copy of the notice so served to the Board; and thereupon the Board may order an inspection to be made and may appoint an inspector for that purpose who shall forthwith appoint a day when he will examine into the matter; and he shall, by mail, give notice to the head of the municipality, and to the company, of the day he so fixes; and upon the day so named he shall examine the crossing, and a certificate under his hand shall be final on the subject so in dispute between the parties; and if the inspector determines that any repairs are required he shall specify the nature thereof in his certificate and direct the company to make the same; and the company shall thereupon forthwith comply with the requirements of the certificate; and, in case of default, the corporation of the municipality may make such repairs and may recover all costs, expenses and outlays in the premises by action against the company.

Notice.

Inspector's certificate to be conclusive.

(2) The inspector shall be entitled to be paid \$10 and actual travelling expenses while engaged on the inspection, and in case he finds that any repairs are required he shall be paid by the company, but if he finds that no repairs are required he shall be paid by the municipality.

Payment of inspectors.

(3) Neither this section nor any proceeding had thereunder shall affect any liability otherwise attaching to such company in the premises. 3-4 Geo. V. c. 36, s. 128.

Other liability.

Crossing and Junction of Railways.

129.—(1) The railway lines or tracks of any company shall not cross or join or be crossed or joined by or with any railway lines or tracks other than those of such company until leave therefor has been obtained from the Board as hereinafter provided.

Leave necessary for crossings and junctions.

(2) Upon any application for such leave the applicant shall submit to the Board a plan and profile of such crossing or junction and such other plans, drawings and specifications as the Board may, in any case or by regulation, require.

Application to Board and material.

(3) The Board may by order

Powers of Board.

(a) grant such application on such terms as to protection and safety as it may deem expedient;

(b) change the plan and profile, drawings and specifications, so submitted and fix the place and mode of crossing or junction;

(c) direct that one line or track or one set of lines or tracks be carried over or under another line or track or set of lines or tracks;

(d) direct that such works, structures, equipment, appliances and materials be constructed, provided,

installed, maintained, used or operated, watchmen or other persons employed, and measures taken, as under the circumstances appear to the Board best adapted to remove and prevent all danger of accident, injury or damage;

(e) determine the amount of damage and compensation, if any, to be paid for any property or land taken or injuriously affected by reason of the construction of such works;

(f) give directions as to supervision of the construction of the works; and

(g) require that detailed plans, drawings and specifications of any works, structures, equipment or appliances required, shall, before construction or installation, be submitted to and approved by the Board.

Leave of
Board
authorizing
operation.

(4) No trains shall be operated on the lines or tracks of the applicant, over, upon or through such crossing or junction until the Board grants an order authorizing such operation.

Idem.

(5) The Board shall not grant such order until satisfied that its orders and directions have been carried out, and that the provisions of this section have been complied with.

Safety
appliances
on rail-level
crossings

(6) The Board may order the adoption and use at any such crossing or junction, at rail levels, of such interlocking switch, derailing device, signal system, equipment, appliances and materials, as in the opinion of the Board will render it safe for engines and trains to pass over such crossing or junction without being brought to a stop. 3-4 Geo. V. c. 36, s. 129.

Connections
of intersect-
ing rail-
way lines.

130.—(1) Where the lines or tracks of one railway are intersected or crossed by those of another, or upon any application for leave to make any intersection or crossing, or in any case in which the tracks or lines of two different railways run through or into the same city, town or village, the Board may, upon the application of one of the companies, or of a municipal corporation or other public body, or of any person interested, order that the lines or tracks of such railways shall be so connected at or near the point of intersection or crossing, or in or near such city, town or village, as to admit of the safe and convenient transfer or passing of engines, cars and trains from the tracks or lines of one railway to those of another, and that such connection shall be maintained and used.

Terms and
costs.

(2) In and by the order for such connection, or from time to time subsequently, the Board may determine by what company or companies, or other corporations or persons, and

in what proportions, the cost of making and maintaining any such connection shall be borne, and upon what terms traffic shall be thereby transferred from the lines of one railway to those of another. 3-4 Geo. V. c. 36, s. 130.

131.—(1) Where the lines or tracks of any railway, the construction or operation of which is authorized by this Legislature, are intersected or crossed by those of a railway, the construction or operation of which is authorized by the Parliament of Canada, or in any case in which the lines or tracks of any two such railways run through or into the same city, town or village, and it is desired by one of such companies or by any municipal corporation or other public body, or any person interested, that the lines or tracks of such railways should be connected, so as to admit of the safe and convenient transfer of engines and trains from the lines or tracks of one railway to those of another, and for the reasonable receiving, forwarding, delivering, and interswitching of traffic between such railways, the following proceedings may be had and taken:—

- (a) Either of such companies, or any municipal corporation or other public body, or any person interested, may file with the secretary, and with the secretary of the Board of Railway Commissioners for Canada, an application for an order that such connection should be required to be made, together with evidence of service of such application upon the railway companies interested or affected, and where the application is not made by the municipal corporation, upon the head of the municipal corporation of the municipality within which the proposed connection is to be made. Application to Board and to Dominion Board.
- (b) After the receipt of the application, the Board, and the Board of Railway Commissioners for Canada, may, by joint session or conference, in conformity with the practice to be established by them, hear and determine the application, and may order that the lines and tracks of such railways shall be so connected at or near the point of intersection, or in or near such city, town or village, upon such terms and conditions and subject to such plans as they may deem proper. Joint order of boards.
- (c) The Chairman of the Board, and the Chairman of the Board of Railway Commissioners for Canada, may make rules of procedure and practice covering the making of such applications and the hearing and disposition thereof, and may vary, alter or rescind the same from time to time. Power to make rules governing such applications.
- (d) The Chairman of the Board, and the Chairman of the Board of Railway Commissioners for Canada, may from time to time assign or appoint from Membership of joint Board.

each Board the members comprising the Joint Board that may be required to sit for the hearing and determining of such applications as they arise.

Order may
be made
Rule of
Court.

(e) The order aforesaid may be made a rule of the Exchequer Court of Canada, and may be enforced in like manner as a rule, order or decree of such court.

Interpreta-
tion.

(2) "Railway" for the purposes of this section shall include a steam or electric railway, street railway, tramway and incline railway. 3-4 Geo. V. c. 36, s. 131.

Mines and Minerals.

Mines to be
protected.

132. The company shall not, without the authority of the Board, locate the line of its proposed railway or construct the same or any portion thereof so as to obstruct or interfere with or injuriously affect the working of or the access or adit to any mine then open, or for the opening of which preparations are, at the time of such location, being lawfully and openly made. 3-4 Geo. V. c. 36, s. 132.

Company
not entitled
to minerals.

133.—(1) The company shall not, unless the same have been expressly purchased, be entitled to any mines, ores, metals, coal, slate, mineral oils, gas or other minerals in or under any land purchased by it, or taken by it under any compulsory powers given it by this Act, except only such parts thereof as are necessary to be dug, carried away or used in the construction of the works.

Exception.

Not included
in convey-
ance.

(2) All such mines and minerals, except as provided by subsection 1, shall be deemed to be excepted from the conveyance of such land, unless they have been expressly named therein and conveyed thereby. 3-4 Geo. V. c. 36, s. 133.

Prohibition of
mining
within 40
yards of
railway.

134.—(1) No owner, lessee or occupier of any such mines or minerals lying under the railway or any of the works connected therewith, or within forty yards therefrom, shall work the same until leave therefor has been obtained from the Board.

Application
to Board and
material.

(2) Upon any application to the Board for leave to work any such mines or minerals the applicant shall submit a plan and profile of the portion of the railway to be affected thereby, and of the mining works or plant affecting the railway, proposed to be constructed or operated, giving all reasonable and necessary information and details as to the extent and character of the same.

Terms for
protection of
the public.

(3) The Board may grant such application upon such terms and conditions for the protection and safety of the public as the Board deems expedient, and may order that such other works be executed, or measures taken, as under

the circumstances appear to the Board best adapted to remove or diminish the danger arising or likely to arise from such mining operations. 3-4 Geo. V. c. 36, s. 134.

135. The company shall, from time to time, pay to the owner, lessee or occupier of any such mines such compensation as the Board shall order to be paid to such owner, lessee or occupier for and on account of any severance of the land lying over such mines by the railway, or of the working of such mines being prevented, stopped or interrupted, or of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and also for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway. 3-4 Geo. V. c. 36, s. 135.

Compensation of mine-owner for loss through severance of mine.

136. If necessary, in order to ascertain whether any such mines are being worked, or have been worked, so as to damage the railway or works or in such manner as to be detrimental to the safety of the public using the railway or of the tracks and trains of the company, it shall be lawful for the company, with the written permission and authorization of the Board, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked. 3-4 Geo. V. c. 36, s. 136.

Power of company to enter mines for purpose of ascertaining whether working endangers railway.

137. If the owner, lessee or occupier of any such mine refuses to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall, for every such refusal, forfeit to the company a sum not exceeding \$100. 3-4 Geo. V. c. 36, s. 137.

Penalty for refusing company access to mines.

Prevention of Fire.

138. The company shall at all times maintain and keep its right of way free from dead or dry grass, weeds and other unnecessary inflammable matter. 3-4 Geo. V. c. 36, s. 138.

Removing inflammable matter.

139.—(1) Whenever damage is caused to any property by a fire started by any railway locomotive the company making use of such locomotive, whether guilty of negligence or not, shall be liable for such damage, but if it is shown that the company has used modern and efficient appliances, and has not otherwise been guilty of any negligence, the total amount of compensation recoverable from the company, under this section, in respect of any one or more claims for

Liability for fire caused by locomotive.

Limit. damage from a fire or fires started by the same locomotive and upon the same occasion, shall not exceed \$5,000.

Reduction of damages where insurance. (2) If there is any insurance existing on the property destroyed or damaged the total amount of damages sustained by any claimant shall be reduced by the amount accepted or recovered by or for the benefit of such claimant in respect of such insurance.

Railway and insurance contract. (3) No action shall lie against the company by reason of anything in any policy of insurance or by reason of payment of any money thereunder.

Limitation. (4) The limitation of one year prescribed by section 265 shall run from the date of final judgment in any action brought by the assured to recover such insurance money, or, in the case of settlement, from the date of the receipt of such moneys by the assured, as the case may be.

Apportionment of compensation. (5) The compensation, in case the total amount recovered therefor is less than the claims established, shall be apportioned amongst the persons who suffered the loss, as the court or judge may determine.

Interest in property. (6) The company shall have an insurable interest in all property upon or along its route, for which it may be held liable to compensate the owners for loss or damage by fire caused by a railway locomotive, and may procure insurance thereon on its own behalf. 3-4 Geo. V. c. 34, s. 139.

Powers of Boards as to fire guards. 140. The Board may order, upon such terms and conditions as it deems expedient, that fire guards be established and maintained by the company along the route of its railway, and upon any land of His Majesty or of any person lying along such route, and, subject to the terms and conditions of any such order, the company may at all times enter into and upon any such land for the purpose of establishing and maintaining such fire guards thereon, and freeing from dead or dry grass, weeds and other unnecessary inflammable matter, the land between such fire guards and the line of railway. 3-4 Geo. V. c. 36, s. 140.

Limitation of Time for Construction.

Time for construction limited. 141 If the construction of the railway, street railway, or incline railway is not commenced, and fifteen per centum of the amount of the capital stock is not expended thereon, within two years after the passing of the special Act, or in case of a railway other than a street railway, if the railway is not finished and put in operation within five years from the passing of such Act, the powers granted by it or by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted. 3-4 Geo. V. c. 36, s. 141.

Use of Steam During Construction.

142. A company while constructing a line of railway to be operated by electricity on a right of way owned by the company may use steam as a motive power during such construction and at other times for construction purposes.

Electric companies may use steam for construction.

3-4 Geo. V. c. 36, s. 142.

Contracts for Construction.

143. The company may contract with any individual, corporation or association of individuals for the construction of equipment of the railway or any part thereof, including or excluding the purchase of right of way, and may pay therefor, either in whole or in part, in cash or in bonds, or in paid-up stock of the company, and may pay or agree to pay in such paid-up stock or bonds such sums as it may deem expedient to engineers, or for the right of way, or material, plant or rolling stock, and also for the services of the promoters or other persons who may be employed by the directors for the purpose of assisting them and furthering the undertaking or purchasing the right of way, material, plant or rolling stock; but no such contract shall be of any force or validity unless first authorized by resolution passed by the votes of the shareholders, in person or by proxy, representing two-thirds in value of the whole amount paid up of the total capital stock of the company then issued and outstanding, at a general meeting of the shareholders specially called for the purpose of considering such matters, and the stock so acquired by any person shall for all purposes be deemed to be paid up in cash.

Contracts for construction of line, etc.

Payment in stock or bonds.

Assent of shareholders.

3-4 Geo. V. c. 36, s. 143.

OPERATION AND SERVICE.

Regulations governing the Running of Trains.

144. All regular trains shall be started and run as nearly as practicable at regular hours fixed by public notice.

Regular hours and public notice.

3-4 Geo. V. c. 36, s. 144.

145.—(1) Every company shall have a blackboard put upon the outside of the station house over the platform of the station, in some conspicuous place, at each station of such company at which there is a telegraph or telephone office; and when any passenger train or car is overdue at any such station, according to the time-table of such company, the station agent or person in charge at such station shall write, or cause to be written, with white chalk on such blackboard a notice stating, to the best of his knowledge and belief, the time when such overdue train or car may be expected to reach such station.

Notice board at stations.

Overdue trains.

Time when expected.

Further
changes.

(2) If there is any further change in the expected time of arrival the station agent or person in charge of the station shall write, or cause to be written, on the blackboard in like manner a fresh notice stating, to the best of his knowledge and belief, the time when such overdue train or car may then be expected to reach such station.

Penalty for
omission.

(3) Every such company, station agent or person in charge of any such station shall incur a penalty not exceeding \$5 for every wilful neglect, omission or refusal to obey the provisions of this section, recoverable under *The Ontario Summary Convictions' Act*. 3-4 Geo. V. c. 36, s. 145.

Rev. Stat. c. 90.

Accommo-
dation.

146.—(1) The company shall

At starting
point junctions
and stopping
places.

(a) furnish, at the place of starting, and at the junction of the railway with other railways, and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage upon the railway;

Carriage and
delivery.

(b) furnish adequate and suitable accommodation for the carrying, unloading, and delivering of all such traffic;

No delay.

(c) without delay, and with due care and diligence, receive, carry, and deliver all such traffic; and

Appliances for
carriage and
delivery.

(d) furnish and use all proper appliances, accommodation and means necessary for receiving, loading, carrying, unloading and delivering such traffic.

Including
accommodation
for private
sidings.

(2) Such adequate and suitable accommodation shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by the company and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways, together with the coupling or uncoupling of cars and moving them upon and from such private sidings and private branch railways.

Powers of
Board.

(3) If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time or during such period as the Board deems expedient, having regard to all proper interests; or may prohibit or limit the use, either generally or upon any specified railway or part thereof, of any engines, locomotives, cars, rolling stock, apparatus, machinery, or devices, or any class or kind thereof, not equipped as required by this Act, or by any orders or regulations of the Board made within its jurisdiction under the provisions of this Act.

Payment
of tolls.

(4) Such traffic shall be taken, carried to and from, and delivered at the places aforesaid on the due payment of the toll lawfully payable therefor.

(5) Where a company's railway crosses or joins or approaches, in the opinion of the Board, sufficiently near to any other railway upon which passengers or mails are transported, the Board may order the company to so regulate the running of its trains carrying passengers or mails, and the places and times of stopping them, as to afford reasonable opportunity for the transfer of passengers and mails between its railway and such other railway, and may order the company to furnish reasonable facilities and accommodation for such purpose.

Regulation of time to allow connections between railways for passengers and mails.

(6) For the purposes of this section the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company, or companies, or by railway companies generally.

Specific works may be ordered by Board.

(7) Every person aggrieved by any neglect or refusal of the company to comply with the requirements of this section shall, subject to this Act, have an action therefor against the company, from which action the company shall not be relieved by any notice, condition or declaration, if the damage arises from any negligence or omission of the company or of its servants.

Right of action on default.

(8) The Board may make regulations, applying generally or to any particular railway or any portion thereof, imposing charges for default or delay by any company in furnishing accommodation, appliances, or means as aforesaid, or in receiving, loading, carrying, unloading or delivering traffic, and may enforce payment of such charges by companies to any person injuriously affected by such default or delay; and any amount so received by any person shall be deducted from the damages recoverable or recovered by such person for such default or delay; and the Board may, by order or regulation, determine what circumstances shall exempt any company from payment of any such charges. 3-4 Geo. V. c. 36, s. 146.

Demurrage.

147. Every employee of the company employed in a passenger train or at a passenger station shall wear upon his hat or cap a badge which shall indicate his office, and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property. 3-4 Geo. V. c. 36, s. 147.

Employees in passenger trains or stations to wear badges.

148. The fare or toll shall be due and payable by every passenger on entering the car or other conveyance, and every passenger who refuses to pay his fare may, by the conductor of the train and the train servants of the company, be ex-

Expulsion on refusal to pay fare.

pelled from and put out of the train with his baggage, at any usual stopping place or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force. 3-4 Geo. V. c. 36, s. 148.

No claim
for injuries
in certain
cases.

149. No person injured while on the platform of a car, or on any baggage or freight car, in violation of the printed regulations posted up at the time, shall have any claim in respect of the injury, if room inside of the passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. 3-4 Geo. V. c. 36, s. 149.

Position of
passenger
cars.

150.—(1) No passenger train shall have any freight, merchandise, or lumber car in the rear of any passenger car in which any passenger is carried.

Penalty for
violation.

(2) Every officer or employee of a company who directs, or knowingly permits, any freight, merchandise or lumber car to be so placed shall incur a penalty not exceeding \$10, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 150.

Rev. Stat. c. 90.

Baggage
checks.

151.—(1) A check shall be affixed by the company to every parcel of baggage having a handle, loop or suitable means for attaching a check thereupon, delivered by a passenger to the company for transport, and a duplicate of such check shall be given to the passenger delivering the same.

Excess
baggage.

(2) In the case of excess baggage the company shall be entitled to collect from the passenger, before affixing any such check, the toll authorized under this Act.

Liability
for refusing
to check
baggage.

(3) If such check is improperly refused on demand the company shall be liable to such passenger for the sum of \$8 recoverable by action.

Saving.

(4) This section shall not apply to any train or car operated by electricity unless the Board so orders. 3-4 Geo. V. c. 36 s. 151.

Transportation
of dangerous
goods.

152.—(1) No passenger shall carry, nor shall the company be required to carry upon its railway gunpowder, dynamite, nitro-glycerine or any other goods which are of a dangerous or explosive nature.

Nature
must be
marked on
outside.
Notice.

(2) Every person who sends by the railway any such goods shall distinctly mark their nature on the outside of the packages containing the same and otherwise give notice in writing to the station agent or employee of the company whose duty it is to receive such goods and to whom the same are delivered.

Penalty.

(3) Every person who contravenes this section shall forfeit to the company the sum of \$500 for every such contravention. 3-4 Geo. V. c. 36, s. 152.

153.—(1) The company may refuse to take any package or parcel which it suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact. Company may refuse to carry.

(2) The company shall not carry any such goods of a dangerous nature except in cars specially designated for that purpose, on each side of each of which shall plainly appear in large letters the words "Dangerous Explosives." Carriage of such goods.

(3) For each neglect to comply with the provisions of this section the company shall incur a penalty of \$500. Penalty. 3-4 Geo. V. c. 36, s. 153.

Crossing Draw or Swing Bridge.

154.—(1) When any railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation every train shall, before coming on or crossing over such bridge, be brought to a full stop and shall not thereafter proceed until a proper signal has been given for that purpose. Trains to stop at swing bridges.

(2) In default the company shall incur a penalty not exceeding \$400. Penalty Company.

(3) Any employee who fails to comply with the rules of the company made for carrying into effect the provisions of this section shall incur a penalty not exceeding \$400, recoverable under *The Ontario Summary Convictions Act*, and upon conviction shall also be liable to imprisonment for any term not exceeding six months or both. Employee.

(4) Wherever there is in use on any railway at any such bridge an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains to pass over such bridge without being brought to a stop the Board may, by order, permit engines and trains to pass over such bridge without stopping under such regulations as to speed and other matters as the Board deems proper. 3-4 Geo. V. c. 36, s. 154. Where safety devices installed.

Crossing Highways.

155.—(1) When any train is approaching a highway crossing at rail-level the engine whistle shall be sounded at least eighty rods before reaching such crossing, and the bell shall be rung continuously from the time of sounding the whistle until the engine has crossed such highway. Use of bell and whistle.

(2) In the case of a car or locomotive operated by electricity an air whistle shall be blown or the gong be sounded continuously for eighty yards before reaching such crossing. Electric cars or locomotives.

(3) The company shall for each neglect to comply with the provisions of this section incur a penalty of \$8, recoverable Penalty.

Damages.
Rev. Stat. c. 90.

under *The Ontario Summary Convictions Act*, and shall also be liable for all damage sustained by any person by reason of such neglect.

Penalty on
employee.

(1) Every employee of the company who neglects to comply with this section shall for each offence incur a like penalty.

Exception.

(5) This section shall not apply to trains approaching such a crossing within the limits of a city or town where a municipal by-law is in force prohibiting the sounding of the whistle or gong or the ringing of the bell. 3-4 Geo. V. c. 36, s. 155.

Signal at
rail-level
crossings.

156.—(1) No train shall pass over any crossing where two main lines of railway or the main tracks of any branch lines cross each other at rail-level, whether they are owned by different companies or the same company, until a proper signal has been received by the conductor, engineer or motorman in charge of such train, engine or motor car from a competent person or watchman in charge of such crossing that the way is clear.

Electric
railway
crossings.

(2) In the case of an electric car crossing any railway track at rail-level, if there is no competent person or watchman in charge of the crossing, it shall be the duty of the conductor, before crossing and before giving the signal to the motorman that the way is clear and to proceed, to go forward and see that the track to be crossed is clear.

Stoppage
of trains
at rail-level
crossings.

(3) Every train shall, before it passes over any such crossing, be brought to a full stop; but whenever there is in use at any such crossing an interlocking switch and signal system or other device which, in the opinion of the Board, renders it safe to permit trains to pass over such crossing without being brought to a stop the Board may, by order, permit such trains to pass over such crossing without stopping under such regulations as to speed and other matters, as the Board deems proper.

Where
safety
devices are
installed.

(4) Nothing in this section shall apply to a case in which the Board of Railway Commissioners for Canada has jurisdiction to make an order and has made an order for the protection of such crossing. 3-4 Geo. V. c. 36, s. 156.

Rate of
speed in
unfenced
portions
of cities.

157.—(1) No train shall pass in or through any thickly peopled portion of any city, town or village at a speed greater than ten miles an hour, unless the track is fenced or properly protected in the manner prescribed by this Act, or unless permission is given by some regulation or order of the Board.

Board may
limit.

(2) The Board may limit such speed in any case to any rate which it deems expedient.

(3) Subject to the provisions of subsection 5 of this section no train shall pass over any highway crossing at rail-level in any thickly peopled portion of any city, town or village at a greater speed than ten miles an hour, unless such crossing is constructed and thereafter maintained and protected in accordance with the orders, regulations and directions of the Board in force with respect to such crossing, or unless permission is given by some regulation or order of the Board.

Rate of speed at rail-level crossings in cities, towns and villages.

(4) The Board may from time to time fix the speed in any case at any rate that it deems proper.

Board may direct.

(5) No train shall pass over any highway crossing at rail-level at a greater speed than ten miles an hour, if at such crossing an accident has happened subsequent to the first day of January, 1905, by a moving train causing bodily injury or death to a person using such crossing, unless and until such crossing is protected to the satisfaction of the Board; and no train shall pass over any highway crossing at rail-level at a greater speed than ten miles an hour in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with.

Rate of speed at certain crossings.

3-4 Geo. V. c. 36, s. 157.

158.—(1) Whenever in any city, town or village any train is passing over or along a highway at rail-level, and is not headed by an engine or electric car moving forward in the ordinary manner, the company shall station on that part of the train, or of the tender if that is in front, which is then foremost a person who shall warn persons standing on, or crossing, or about to cross, the track of such railway.

Trains or cars moving reversely in cities, etc.

(2) For every contravention of any of the provisions of this section, or of any of the next preceding three sections, the company shall incur a penalty of \$100, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 158.

Penalty.

Rev. Stat. c. 90.

159.—(1) Whenever any railway crosses any highway at rail-level the company shall not, nor shall its officers, agents or employees, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of such highway for a longer period than five minutes at one time, or in shunting to obstruct public traffic for a longer period than five minutes at any one time, or for any less period which the Board may prescribe.

Trains must not stand on rail-level crossings more than five minutes.

(2) For every contravention of this section every such officer, agent or employee who has directly under or subject to his control, management or direction any engine, tender or car which, or any portion of which, is allowed to stand on such highway longer than the time specified in this section shall incur a penalty not exceeding \$50, recoverable under *The Ontario Summary Convictions Act*, and the company shall

Penalty.

Where violation excusable.

Rev. Stat. c. 90

also for each such violation incur a like penalty, but if such alleged violation is, in the opinion of the justice, excusable the prosecution for the penalty may be dismissed, and the costs shall be in his discretion. 3-4 Geo. V. c. 36, s. 159.

Sleeping and Parlour Cars.

Sleeping
and parlour
cars.

160.—(1) The company may contract with any person for the hauling, by the special or regular trains of the company, of the parlour, drawing-room or sleeping cars of such person in which extra accommodation is furnished.

May charge
for extra
accommoda-
tion.

(2) Such person may charge for the carriage and transportation of persons and property therein such reasonable compensation as may be fixed by the Board for such extra accommodation, in addition to the fare and charges for the carriage and transportation of passengers and property in the ordinary cars of the company.

Liability of
company.

(3) The company so contracting shall be liable in the same way and to the same extent as if the cars were owned by it.

Other obli-
gations not
affected.

(4) Nothing in this section shall relieve the company from the obligation to furnish sufficient ordinary cars for the reasonable accommodation of the travelling public. 3-4 Geo. V. c. 36, s. 160.

Stations.

Stations.

161.—(1) The company shall, when thereto directed by order of the Board, maintain and operate stations, with such accommodation or facilities in connection therewith as are defined by the Board, at such points on the railway as are designated in such order.

Accommoda-
tion.

(2) Every station of the company shall be erected, operated and maintained with good and sufficient accommodation and facilities for traffic.

Approval of
location
by Board.

(3) Before the company proceeds to erect any station upon its railway the location of such station shall be approved of by the Board.

No discon-
tinuance
without
leave.

(4) No station established by a company for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the Board.

Order by
Board upon
complaint as to
station
accommoda-
tion, etc.

(5) Upon the written complaint of ten or more persons interested setting forth that any of the provisions of this Act as to station accommodation or stopping places are being violated by the company, the Board shall forthwith investigate the complaint, and if, upon such investigation, it is found that such violation exists the Board shall issue an order to the company setting forth the nature of the improvements required and shall direct that the same be completed within such time as the Board may deem proper.

(6) Every person aggrieved by any neglect or refusal in the premises shall, subject to this Act, have an action therefor against the company from which the company shall not be relieved by any notice, condition or declaration or any agreement to the contrary if the damage arises from any negligence or omission of the company or of its servants. 3-4 Geo. V. c. 36, s. 161. Right of action.

MUNICIPAL BONUSES.

162.—(1) Where a municipal corporation grants a bonus or makes a gift to the company to the amount of \$20,000 or upwards, or holds stock in the company to that amount, the head of the municipality shall be *ex-officio* one of the directors of the company, in addition to the number of directors authorized by the special Act, and shall have the same rights, powers and duties as any of the directors of the company. When head of municipality to be *ex-officio* a director.

(2) A municipal corporation owning or having a controlling interest in the capital stock of a railway, electric railway, street railway or ineline railway shall not dispose of the railway or its stock so as to deprive it of such controlling interest except under the authority of a by-law passed with the assent of the municipal electors in accordance with the provisions of *The Municipal Act*. 3-4 Geo. V. c. 36, s. 162. Municipal corporation not to part with control without assent of electors.
Rev. Stat. c. 192

BY-LAWS, RULES AND REGULATIONS.

163. The company may, subject to the provisions and restrictions in this and in the special Act, make by-laws, rules or regulations respecting Powers of company respecting—

- (a) the mode by which, and the speed at which, any rolling stock used on the railway is to be moved; Speed.
- (b) the hours of the arrival and departure of trains; Timetables.
- (c) the loading and unloading of cars, and the weights which they are respectively to carry; Loads.
- (d) the receipt and delivery of traffic; Freight regulations.
- (e) the smoking of tobacco, expectorating, and the commission of any nuisance in or upon trains, stations or other premises occupied by the company; Nuisances.
- (f) the travelling upon or the using or working of the railway; Traffic and operation.
- (g) the employment and conduct of the officers and employees of the company; Conduct.
- (h) the due management of the affairs of the company; Management.

Passengers.

- (i) the number of passengers to be allowed in cars, their mode of entrance or exit, and the portion of the car or the class of car to be occupied by them. 3-4 Geo. V. c. 36, s. 163.

Penalty for violation of by-laws.

164. The company may, for the better enforcing the observance of any such by-law, rule or regulation, prescribe a penalty not exceeding \$25 for any contravention thereof by an officer or employee of the company, but no such penalty shall be recoverable except under *The Ontario Summary Convictions Act* which shall apply to proceedings for the recovery thereof. 3-4 Geo. V. c. 36, s. 164.

Rev. Stat. c. 90.

Essentials to validity.

165. All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company and be kept in the office of the company. 3-4 Geo. V. c. 36, s. 165.

When approval of Board required.

166. All such by-laws, rules and regulations, except such as are of a private or domestic nature and do not affect the public generally or impose penalties, shall be submitted to the Board for approval, and the Board may approve of them or any of them, or any part thereof, and may, from time to time, rescind its approval, and until so approved, or after such approval has been rescinded, no such by-law, rule or regulation shall have any force or effect. 3-4 Geo. V. c. 36, s. 166.

Binding when approved.

167. Such by-laws, rules and regulations while so approved shall be binding upon, and observed by, all persons, and shall be sufficient to justify all persons acting thereunder. 3-4 Geo. V. c. 36, s. 167.

Publication of by-laws, etc., as regards public.

168.—(1) A printed copy of so much of any by-law, rule or regulation as affects any person, other than the shareholders, or the officers or employees of the company, shall be openly affixed and kept affixed to a conspicuous part of every station belonging to the company, so as to give public notice thereof to the persons interested therein or affected thereby.

As regards officers or employees.

(2) A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company shall be given to every officer and employee of the company thereby affected. 3-4 Geo. V. c. 36, s. 168.

Summary interference in certain cases.

169. If the contravention or non-observance of any by-law, rule or regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or

to enforce observance, without prejudice to any penalty incurred in respect of such violation or non-observance. 3-4 Geo. V. c. 36, s. 169.

170. A copy of any by-law, rule or regulation, certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company, shall be evidence thereof in any court. 3-4 Geo. V. c. 36, s. 170. Evidence of by-laws.

171. Every written or printed document purporting to have been issued or authorized by a company, or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document. 3-4 Geo. V. c. 36, s. 171. Of documents authorized.

172. All by-laws, rules and regulations of a company operating its railway by electricity partly or wholly on a highway or of a street railway company shall be subject to any agreement between such company and the municipal corporation owning or maintaining such highway. 3-4 Geo. V. c. 36, s. 172. By-laws, etc., to be subject to agreements with municipalities.

INSPECTION OF RAILWAYS.

Inspecting Engineers.

173.—(1) Inspecting engineers may be appointed by the Board, subject to the approval of the Lieutenant-Governor in Council. Appointment of inspecting engineers.

(2) It shall be the duty of every such inspecting engineer, upon being directed by the Board, to inspect any railway or any branch line, siding or portion thereof whether constructed or in the course of construction, to examine the stations, rolling stock, rails, road bed, right of way, tracks, bridges, tunnels, trestles, viaducts, drainage, culverts, railway crossings and junctions, highway and farm crossings, fences, gates and cattle-guards, telegraph, telephone, or power or other lines of electricity, and all other buildings, works, structures, equipment, apparatus, and appliances thereon, or to be constructed or used thereon, or such part thereof as the Board may direct, and forthwith to report fully thereon in writing to the Board. Duties.

(3) Every such inspecting engineer shall have the same powers with regard to any such inspection as by section 53 of *The Ontario Railway and Municipal Board Act* are conferred on an inspecting engineer. Powers. Rev. Stat. c. 186.

(4) Every company, and the officers and directors thereof, shall afford to any inspecting engineer such information as is within their knowledge and power in all matters inquired Duties of company to afford information.

into by him, and shall submit to him all plans, specifications, drawings and documents relating to the construction, repair or state of repair of the railway or any portion thereof.

Inspecting engineers may travel free.

Use telegraph and telephone wires, etc.

Transmission of telegrams or telephone.

Penalty upon failure. Rev. Stat. c. 90.

Proof of engineer's authority.

Penalty for obstructing inspecting engineers. Rev. Stat. c. 90.

(5) Every such inspecting engineer shall have the right, while engaged in the business of such inspection, to travel without charge on any of the ordinary passenger trains running on the railway, and to use without charge the telegraph and telephone wires and machinery in the offices of, or under the control of, any such company.

(6) The operators or officers employed in the telegraph or telephone offices of or under the control of the company shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages; and every such operator or officer who neglects or refuses so to do shall, for every such offence, incur a penalty of not exceeding \$40, recoverable under *The Ontario Summary Convictions Act*.

(7) The production of his appointment in writing, signed by the Chairman of the Board, or the secretary, shall be sufficient evidence of the authority of such inspecting engineer.

(8) Every person who wilfully obstructs any inspecting engineer in the execution of his duty shall incur a penalty not exceeding \$40, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 173.

Inspection of Line.

Leave of Board before opening.

Application to Board and material.

Inspection

Order of Board when opening reported to be safe.

174.—(1) No railway, nor any portion of a railway, shall be opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, until leave therefor has been obtained from the Board as hereinafter provided.

(2) When the company is desirous of so opening its railway, or any portion thereof, it shall make an application to the Board for authority therefor, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, stating that such railway, or portion thereof, is, in his opinion, sufficiently completed for the safe carriage of traffic and ready for inspection.

(3) Before granting such application the Board shall direct an inspecting engineer to examine the railway, or portion thereof, proposed to be opened.

(4) If the inspecting engineer reports to the Board, after making such examination, that, in his opinion, the opening of the railway or portion thereof for the carriage of traffic will be reasonably free from danger to the public using the same, the Board may make an order granting such application, in whole or in part, and may name the time therein for the opening of the railway or such portion thereof, and there-

upon the railway or such portion thereof as is authorized by the Board may be opened for traffic in accordance with such order.

(5) If the inspecting engineer reports to the Board that, in his opinion, the opening of the railway or portion thereof would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the construction or equipment of such railway or portion thereof, he shall state in his report the grounds for such opinion, and the company shall be entitled to notice thereof, and shall be served with a copy of such report, and the Board may refuse such application, in whole or in part, or may direct a further or other inspection and report to be made.

When opening reported dangerous.

Notice to be served on company.

(6) If thereafter, upon such further or other inspection or upon a new application under this section, the inspecting engineer reports that such railway or portion thereof may be opened without danger to the public the Board may make an order granting such application in whole or in part, and may name the time therein for the opening of the railway or such portion thereof, and thereupon the railway or such portion thereof as is authorized by the Board may be opened for traffic in accordance with such order.

Provision for further inspection.

Order for opening.

(7) The Board, upon being satisfied that public convenience will be served thereby, may, after obtaining a report of an inspecting engineer, allow the company to carry freight traffic over any portion of the railway not opened for the carriage of traffic in accordance with the preceding provisions of this section.

Leave to carry freight traffic.

(8) If any railway or portion thereof is opened contrary to the provisions of this section the company, or person to whom such railway belongs, shall forfeit to His Majesty the sum of \$200 for each day on which the railway or portion thereof is or continues open without such leave. 3-4 Geo. V. c. 36, s. 174.

Penalty for irregular opening.

175.—(1) Whenever any complaint is made to the Board, or the Board receives information, that any railway or any portion thereof is dangerous to the public using the same from want of renewal or repair, or insufficient or erroneous construction, or from any other cause, or whenever circumstances arise which, in its opinion, render it expedient the Board may direct an inspecting engineer to examine the railway or any portion thereof.

When railway out of repair.

Inspection.

(2) The Board may, upon the report of the inspecting engineer, order any repairs, renewal, reconstruction, alteration or new work, materials or equipment to be made, done, or furnished by the company upon, in addition to or substitution for any portion of the railway which may, from such report, appear to the Board necessary or proper, and may

Board may order repairs.

May enjoin
operation
meantime.

order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction no portion of the railway, in respect of which such order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may in such order impose.

Rolling
stock may
be con-
demned.

(3) The Board may, by such order, condemn and thereby forbid further use of any rolling stock which, from such report, it may consider unfit to repair or use.

Penalty for
non-com-
pliance.

(4) If, after notice of any such order made by the Board, the company uses any rolling stock which has been so condemned by the Board, or disobeys, or fails to comply with any order of the Board made under this section, the company shall incur a penalty of \$2,000.

Aiding and
abetting.

(5) Any person wilfully and knowingly aiding or abetting any such contravention shall incur a penalty of not less than \$20 nor more than \$200, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36. s. 175.

Rev. Stat. c. 39.

Inspecting
engineer
may forbid
operation.

176.--(1) If, in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway or any portion thereof until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, he may, by notice in writing,

- (a) forthwith forbid the running of any train over such railway or portion of railway; or,
- (b) require that the same be run only at such times, under such conditions and with such precautions as he by such notice specifies; and
- (c) forbid the running or using of any such rolling stock.

What notice
shall state.

(2) Such notice shall state the reasons for such opinion of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

Service of
notice.

(3) The notice may be served upon the company owning running, or using such railway or rolling stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling stock.

Action of
Board.

(4) The inspecting engineer shall forthwith report such notice to the Board, which may either confirm, modify or disallow the act or order of such engineer.

Notice
thereof.

(5) Notice of such confirmation, modification or disallowance shall be duly given to the company.

Penalty for
non-com-
pliance.

(6) If any company refuses or neglects to comply with any order of the Board, made under this section, the com-

pany shall, for each such refusal or neglect, forfeit to His Majesty the sum of \$2,000.

(7) Any person wilfully and knowingly aiding or abetting any such disobedience or non-compliance shall incur a penalty of not less than \$20 or more than \$200, recoverable under *The Ontario Summary Convictions Act*. Aiding or abetting.

Rev. Stat. c. 90.

(8) No prosecution for any penalty under this section shall be instituted without the authority of the Board. No prosecution without leave of Board.

3-4 Geo. V. c. 36, s. 176.

TOLLS.

By-laws as to.

177.—(1) The company or the directors of the company by by-law, or any officer of the company thereunto authorized by by-law of the company or directors, may from time to time prepare and issue tariffs of the tolls to be charged, in respect of the railway owned or operated by the company, and may specify the persons to whom, the place where, and the manner in which such tolls shall be paid. By-laws authorizing tariffs of tolls.

(2) The tolls may be either for the whole or any particular portion of the railway. For whole or part.

(3) All such by-laws and tariffs shall be submitted to the Board for approval. Approval by Board.

(4) The Board may approve such by-laws and tariffs in whole or in part, or may change, alter or vary any of the provisions therein. In whole or in part or as varied.

(5) No tolls shall be charged by the company or by any person in respect of a railway or any traffic thereon until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor, unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by the Board; nor shall any tolls be charged under any tariff or portion thereof disallowed by the Board; nor shall the company charge, levy or collect any toll or money for any service as a common carrier, except under the provisions of this Act. No tolls to be charged until by-law approved by Board.

(6) The Board may, with respect to any tariff of tolls other than the passenger and freight tariffs in this Act hereinafter mentioned, make regulations fixing and determining the time when, the place where, and the manner in which the tariff shall be filed, published and kept open for public inspection. 3-4 Geo. V. c. 36, s. 177. Regulations of Board as to publication of tariffs.

Express Tolls.

178.—(1) All express tolls shall be subject to the approval of the Board. Approval of express tolls.

Disallowance
of express
tolls.

(2) The Board may disallow any express tariff or any portion thereof which it considers unjust or unreasonable and shall have and may exercise all the powers with respect to express tolls and such tariffs as it has or may exercise under this Act with respect to freight tolls and freight tariffs; and all the provisions of this Act relating to freight tolls and freight tariffs, in so far as such provisions are applicable and not inconsistent with the provisions of this section and the five next following sections, shall apply to express tolls and tariffs. 3-4 Geo. V. c. 36, s. 178.

Tariff of
express tolls.

179. Tariffs of such express tolls shall be filed with the Board and shall be in such form, size and style and give such information, particulars and details as the Board, from time to time, by regulation or by order in any particular case prescribes. 3-4 Geo. V. c. 36, s. 179.

Goods not
to be carried
by express
unless tariff
in force.

180. No company shall carry or transport any goods by express, unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner hereinbefore provided; or, in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto, or in any case where the express toll applicable to such carriage or transport has been disallowed by the Board. 3-4 Geo. V. c. 36, s. 180.

And tolls
not to be
charged in
such case.

181. No express toll shall be charged in respect of which there is default in such filing, or which is disallowed by the Board. 3-4 Geo. V. c. 36, s. 181.

Board may
define
carriage by
express.

182. The Board may, by regulation prescribe or in any particular case, determine what is carriage or transportation of goods by express, or whether goods are carried or transported by express within the meaning of this Act. 3-4 Geo. V. c. 36, s. 182.

Conditions
limiting
liability to
be approved
by Board.

183.—(1) No contract, condition, by-law, regulation, declaration or notice made or given by any company or any person or corporation charging express tolls impairing, restricting or limiting the liability of such company, person or corporation with respect to the collecting, receiving, carrying for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, shall have any force or effect unless first approved by order or regulation of the Board.

Regulation
of carriage
by express.

(2) The Board may in any case or by regulation

(a) determine the extent to which the liability of such company, person or corporation may be so impaired, restricted or limited; and

- (b) prescribe the terms and conditions under which goods may be collected, received, cared for or handled for the purpose of sending, carrying or transporting them by express, or under which goods may be sent, carried, transported or delivered by express by any such company, person or corporation. 3-4 Geo. V. c. 36, s. 183.

184.—(1) Every company and every person and corporation charging express tolls shall make to the Board an annual return of its capital, business and working expenditure, and such other information and particulars, including a statement of unclaimed goods. Annual return by company.

(2) Such return shall be made in such form, covering such period, and at such time, and shall be published in such manner as the Board from time to time directs. Form, etc., of return. 3-4 Geo. V. c. 36, s. 184.

185. Every company which carries or transports, and every officer or employee thereof who directs or knowingly permits to be carried or transported, any goods by express. Carrying by express without filing tariff, etc.

(a) unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner required by this Act; or,

(b) in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto; or,

(c) in any case where the express toll applicable to such carriage or transport has been disallowed by the Board,

shall be liable to a penalty not exceeding \$100 for each such offence. Penalty. 3-4 Geo. V. c. 36, s. 185.

Collection of Tolls.

186.—(1) If the company pays the charges to which any goods which come into its possession are subject the company shall have the same lien for the amount thereof upon such goods as the person to whom such charges were originally due, and shall be subrogated in respect of such charges to his rights and remedies. Collecting back charges on goods.

(2) In case of refusal or neglect of payment on demand of any charges or any lawful tolls, or any part thereof, the same shall be recoverable in any court of competent jurisdiction. Proceedings for recovery.

(3) The company may, instead of proceeding by action for the recovery of such tolls, seize the goods for or in Seizure and detention of goods.

respect whereof such tolls are payable, and may detain the same until payment thereof, and in the meantime such goods shall be at the risk of the owners thereof.

Sale of
goods to
recover tolls.

(4) If the tolls are not paid within six weeks, and where the goods are perishable goods, if the tolls are not paid upon demand or if such goods are liable to perish while in the possession of the company by reason of delay in payment or taking delivery by the consignee, the company may advertise and sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable and all reasonable charges and expenses of such seizure, detention and sale.

Surplus,
applica-
tion of.

(5) The company shall pay or deliver the surplus, if any, or such of the goods as remain unsold to the person entitled thereto.

Unclaimed
goods.

(6) If any goods remain in the possession of the company unclaimed for the space of twelve months the company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Ontario Gazette* and in such newspapers as it deems necessary, sell such goods by public auction at a time and place which shall be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods.

Payment
of balance.

(7) The balance of the proceeds, if any, shall be kept by the company for a further period of three months to be paid over to any person entitled thereto.

When
Province
entitled.

(8) In default of such balance being claimed before the expiration of the period last aforesaid the same shall be paid over to the Treasurer of Ontario to be applied to the general purposes of the Province.

Discrimina-
tion pro-
hibited.

(9) Such balance may be claimed by the person entitled thereto within six years of the date of such payment.
3-4 Geo. V. c. 36, s. 186.

Equality.

Limitation
of claims.

184.—(1) All such tolls shall always, under substantially similar circumstances and conditions in respect of all traffic of the same description and carried in or upon a like kind of cars passing over the same portion of the line of railway, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise.

Idem.

(2) No reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway.

(3) The tolls for larger quantities, greater numbers or longer distances may be proportionately less than the tolls for smaller quantities or numbers, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons. Proportionate decrease in tolls in certain cases.

(4) The company may make uniform special rates for the carriage of fruit, milk and other perishable products and commodities. Special rates for perishable goods.

(5) No toll shall be charged which unjustly discriminates between different localities. Unjust discrimination.

(6) The Board shall not approve or allow any toll which, for the like description of goods or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line, is greater for a shorter than for a longer distance, within which such shorter distance is included, unless the Board is satisfied that, owing to competition, it is expedient to allow such toll. Long and short haul clause.

(7) The Board may declare that any places are competitive points within the meaning of this Act. Competitive points.

(8) No company shall, without leave therefor having been obtained from the Board, except in accordance with the provisions of this Act, directly or indirectly, pool its freights or tolls with the freights or tolls of any other railway company or common carrier, or divide its earnings or any portion thereof with any other railway company or common carrier, or enter into any contract, arrangement, agreement, or combination to effect, or which may effect, any such result. Pooling prohibited.
3-4 Geo. V. c. 36, s. 187.

Freight Classification and Tariffs.

188.—(1) The tariff of tolls for freight traffic shall be subject to and governed by that classification which the Board may prescribe or authorize, and the Board shall endeavour to have such classification uniform throughout Ontario as far as may be, having due regard to all proper interests. Tariff of tolls subject to classification by Board.

(2) The Board may make any special regulations, terms and conditions in connection with such classification, and as to the carriage of any particular commodity or commodities mentioned therein, as to it may seem expedient. Special terms and conditions.

(3) The company may, from time to time, with the approval of the Board, and shall, when so directed by the Board, place any goods specified by the Board in any stated class, or remove them from any one class to any other, higher or lower class; but no goods shall be removed from a lower to a higher class until such notice as the Board determines has been given in the *Ontario Gazette*. 3-4 Geo. V. c. 36, s. 188. Changes of class.

Form and
particulars.

189. All tariff by-laws and tariffs of tolls shall be in such form, size and style, and give such information, particulars and details as the Board may, by regulation or in any case, prescribe. 3-4 Geo. V. c. 36, s. 189.

Disallow-
ance.

190. - (1) The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

Substitution.

Commence-
ment.

(2) The Board may designate the date at which any tariff shall come into force.

Amendment.

(3) Any tariff in force, except standard tariffs hereinafter mentioned, may, subject to disallowance or change by the Board, be amended or supplemented by the company by tariffs in accordance with the provisions of this Act.

Consolida-
tion and
re-issue.

(4) When any tariff has been amended or supplemented from time to time the Board may order that a consolidation and reissue of such tariff be made by the company. 3-4 Geo. V. c. 36, s. 190.

Fraction of
a mile.

191. - (1) In all cases a fraction of a mile in the distance over which traffic is carried on the railway shall be considered as a whole mile.

Fraction of
five pounds
in weight.

(2) In estimating the weight of any goods in any one single shipment on which the toll amounts to more than the minimum, or "smalls" toll, any fraction of five pounds shall be waived by the company, and five or any fraction above five and up to ten pounds shall be deemed ten pounds.

Fraction of
five cents.

(3) In estimating the tolls to be charged in passenger tariffs, any fraction of five cents less than two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents. 3-4 Geo. V. c. 36, s. 191.

Division of
freight
tariffs.

192 The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of goods between points on the railway shall be divided into three classes, namely:

Standard.

(a) The standard freight tariff;

Special.

(b) Special freight tariffs; and

Competitive.

(c) Competitive tariffs. 3-4 Geo. V. c. 36, s. 192.

What
standard
freight
tariff to
specify.

193. - (1) The standard freight tariff or tariffs, where the company is allowed by the Board more than one standard freight tariff, shall specify the maximum mileage tolls to be charged for each class of the freight classification for all distances covered by the company's railway.

(2) Such distances may be expressed in blocks or groups, and such blocks or groups may include relatively greater distances for the longer than for the shorter hauls. Distances.

(3) The special freight tariffs shall specify the toll or tolls, lower than in the standard freight tariff, to be charged by the company for any particular commodity or commodities, or for each or any class or classes of the freight classification, or to or from a certain point or points on the railway; and greater tolls shall not be charged therein for a shorter than for a longer distance over the same line in the same direction, if such shorter distance is included in the longer. What special freight tariffs to specify.

(4) The competitive tariffs shall specify the toll or tolls, lower than in the standard freight tariff, to be charged by the company for any class or classes of the freight classification, or for any commodity or commodities, to or from any specified point or points which the Board may deem or have declared to be competitive points not subject to the long and short haul clause under the provisions of this Act. 3-4 Geo. V. c. 36, s. 193. What competitive tariffs to specify.

194.—(1) Every standard freight tariff shall be filed with the Board and shall be subject to the approval of the Board. Standard freight tariff.

(2) Upon any such tariff being filed and approved by the Board the company shall publish the same, with a notice of such approval, in such form as the Board directs in at least two consecutive weekly issues of the *Ontario Gazette*. Filing. Approval. Publication.

(3) When the provisions of this section have been complied with the tolls as specified in the standard freight tariff or tariffs, as the case may be, shall, except in the cases of special freight and competitive tariffs, be the only tolls which the company is authorized to charge for the carriage of goods. Tolls specified to be the only lawful tolls.

(4) Until the provisions of this section have been complied with no toll for the carriage or transport of goods shall be charged by the company. 3-4 Geo. V. c. 36, s. 194. No toll until compliance.

195.—(1) All special freight tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect. Special freight tariffs.

(2) When any such special freight tariff reduces any toll previously authorized to be charged under this Act, the company shall, for three days previous to the date on which such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of such tariff, at every station or office of the company where freight is received, or to which freight is to be carried thereunder, and also post up in a prominent place, at each such office or station, a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file, but the Board If tolls previously in force are reduced. Notice.

may, by regulation or otherwise, determine and prescribe any other or additional method of publication of the tariff during such period.

If previous
tolls
advanced.

(3) When any such special freight tariff advances any toll previously authorized to be charged under this Act the company shall in like manner file and publish such tariff thirty days previously to the date on which such tariff is intended to take effect.

Effect of
filing.

(4) Upon any such special freight tariff being so filed and published the company shall, until such tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein and such special freight tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, so far as it reduces or advances the tolls therein. 3-4 Geo. V. c. 36, s. 195.

Competitive
tariffs.

196.—(1) Competitive tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

Filing.

(2) Where it may be necessary to meet the exigencies of competition, or as the Board may deem expedient, the Board may make rules and regulations governing the filing or publication of such tariffs, and may provide that any such tariffs may be acted upon and put in operation immediately upon the issue thereof by the company before they have been filed with the Board. 3-4 Geo. V. c. 36, s. 196.

Division of
passenger
tariffs.

197.—(1) The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of passengers between points on the railway shall be divided into two classes, namely:

Standard.

(a) The standard passenger tariff; and,

Special.

(b) Special passenger tariffs.

What
standard
passenger
tariff shall
specify.

(2) The standard passenger tariff shall specify the maximum mileage tolls to be charged for passengers for all distances covered by the company's railway, and such distances may be expressed in like manner as provided herein in respect of standard freight tariffs.

What special
passenger
tariffs shall
specify.

(3) Special passenger tariffs shall specify the toll or tolls to be charged by the company for passengers, in every case where such tolls are lower than the tolls specified in the company's standard passenger tariff. 3-4 Geo. V. c. 36, s. 197.

Standard
passenger
tariff.

198.—(1) A standard passenger tariff shall be filed, approved and published in the same manner as required by this Act in the case of a standard freight tariff.

No toll
until com-
pliance.

(2) Until the company files its standard passenger tariff and such tariff is so approved and published in the *Ontario*

Gazette no tolls for the carriage of passengers shall be charged by the company.

(3) When the provisions of this section have been com-^{Tolls}
plied with the tolls in the standard passenger tariff shall, ^{authorized.}
except in the case of special passenger tariffs, be the only
tolls which the company is authorized to charge for the car-
riage of passengers. 3-4 Geo. V. c. 36, s. 198.

199.—(1) The company shall file all special passenger ^{Special}
tariffs with the Board and shall, for three days previous to ^{passenger}
the date on which any such tariff is intended to take effect, ^{tariffs.}
deposit and keep on file in a convenient place, open for the
inspection of the public during office hours, a copy of each
such tariff at every station or office of the company where
passengers are received for carriage thereunder, and also post ^{Notice.}
up in a prominent place at each such office or station a notice
in large type directing public attention to the place in such
office or station where such tariff is so kept on file, but the
Board may, owing to the exigencies of competition or other-
wise, notwithstanding anything in this section, determine the
time or manner within and according to which publication of
any such tariff is to be made.

(2) The date of the issue and the date on which, and the ^{Date and}
period, if any, during which any such tariff is intended to ^{period.}
take effect shall be specified therein.

(3) Upon any such tariff being so duly filed the company
shall, until such tariff is superseded or is disallowed by the ^{Effect of}
Board, charge the toll or tolls as specified therein, and such ^{filing.}
tariff shall supersede any preceding tariff or tariffs, or any
portion or portions thereof, in so far as it reduces or advances
the tolls therein.

(4) Until such tariff is so duly filed no such toll or tolls ^{No toll}
shall be charged by the company. 3-4 Geo. V. c. 36, s. 199. ^{before filing.}

200.—(1) Where traffic is to pass over any continuous ^{Joint tariffs}
route in Ontario operated by two or more companies the ^{may be}
companies may agree upon a joint tariff for such continuous ^{agreed upon.}
route, and the initial company shall file such joint tariff with
the Board, and the other company or companies shall
promptly notify the Board of its or their assent to and con-
currence in such joint tariff.

(2) The names of the companies whose lines compose such ^{Names of}
continuous route shall be shown by such tariffs. ^{companies.}

(3) If the company owns, charters, uses, maintains or
works, or is a party to any arrangement for using, maintain-
ing or working vessels for carrying traffic by water between
any places or ports in Ontario, and if any such vessel carries
traffic between a port in Ontario reached by such company
and a port in Ontario reached by the railway of another com-
^{Continuous}
^{route in the}
^{case of}
^{carriage by}
^{water.}

pany, the vessel and the railway of either company shall be deemed to constitute a continuous route in Ontario within the meaning of this section. 3-4 Geo. V. c. 36, s. 200.

Where failure to agree.

Board may require.

Companies to comply.

Apportionment of through rate.

Power of Board.

Continuous carriage.

Break in bulk, etc.

Continuity.

Filing and publication of joint tariffs.

201.—(1) In the event of failure by such companies to agree upon any such joint tariff as provided in the last preceding section, the Board, on the application of any company or person desiring to forward traffic over any such continuous route, which the Board considers a reasonable and practicable route, or any portion thereof, may require such companies, within a prescribed time, to agree upon and file in like manner a joint tariff for such continuous route, satisfactory to the Board, or may, by order, determine the route, fix the toll or tolls and apportion the same among the companies interested, and may determine the date when the toll or tolls so fixed shall come into effect.

(2) Upon any such order being made the companies shall, as soon as possible, or within such time as the Board may require, file and publish a joint tariff in accordance with this Act and in accordance with such order.

(3) In any case where there is a dispute between the companies interested as to the apportionment of a through rate in any joint tariff the Board may apportion such rate between such companies.

(4) The Board may decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any company out of such through rate than the toll such company would otherwise be entitled to charge. 3-4 Geo. V. c. 36, s. 201.

202.—(1) No company shall, by any combination, contract or agreement, express or implied, or by other means or devices, prevent the carriage of goods from being continuous from the place of shipment to the place of destination.

(2) No break in bulk, stoppage or interruption made by such company shall prevent the carriage of goods from being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage, or to evade any of the provisions of this Act. 3-4 Geo. V. c. 36, s. 202.

203.—(1) Joint tariffs shall, as to the filing and publication thereof, be subject to the same provisions in this Act as are applicable to the filing and publication of local tariffs of a similar description; and, upon any such joint tariff being so duly filed with the Board, the company or companies shall, until such tariff is superseded or disallowed by the Board, charge the toll or tolls as specified therein; but the Board may

except from the provisions of this section the filing and publication of any or all passenger tariffs of foreign railway companies. Exceptions.

(2) The Board may require to be informed by the company of the proportion of the toll or tolls, in any joint tariff filed, which it or any other company is to receive or has received. Information which Board may require. 3-4 Geo. V. c. 36, s. 203.

204.—(1) The company shall deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each of its tariffs at the following places respectively, Where tariffs may be inspected.

- (a) standard passenger and freight tariffs at every station or office of the company where passengers or freight respectively are received for carriage thereunder; Standard tariffs.
- (b) special passenger and freight tariffs at every station or office of the company where passengers or freight respectively are received for carriage thereunder, and, as to such freight tariffs, as soon as possible, at each of its stations or offices to which freight traffic is to be carried thereunder; Special tariffs.
- (c) competitive tariffs, at each freight station or office of the company where goods are to be received and delivered thereunder; Competitive tariffs.
- (d) joint tariffs for traffic passing over any continuous route in Ontario, operated by two or more companies, at each freight station or office where traffic is to be received, and at each freight station to which such tariffs extend. Joint tariffs.

(2) The company shall keep on file at its stations or offices, where freight is received and delivered, a copy of the freight classification, or classifications, in force upon the railway for inspection during business hours. Freight classifications.

(3) The company shall post up in a prominent place at each of its stations where passengers or freight, respectively, are received for carriage a notice in large type directing the public attention to the place in such station where the passenger or freight tariffs, respectively, are kept on file for public inspection during business hours, and the station agent or person in charge at such station shall produce to any applicant, on request, any particular tariff in use at that station which he may desire to inspect. Notice to be posted at station or place where tariffs open to inspection.

(4) Notwithstanding anything in this section, the Board may, in addition to or in substitution for the publication of any tariff required by this section, by regulation or otherwise, determine and prescribe the manner and form in which any such tariff shall be published or kept open by the company for public inspection. 3-4 Geo. V. c. 36, s. 204. Power of Board as to publication of tariffs.

Contraven-
tion of
orders, etc.

205. If any company or any director or officer thereof, or any receiver, trustee, lessee, agent or person, acting for or employed by such company, either alone or with any other company or person

- (a) wilfully does or causes to be done, or willingly suffers to be done, any act, matter or thing, contrary to any order, direction, decision or regulation of the Board made or given under this Act, in respect of tolls; or
- (b) wilfully omits or fails to do any act, matter or thing thereby required to be done; or
- (c) causes or willingly suffers or permits any act, matter or thing, so directed or required to be done, not to be so done; or
- (d) contravenes any such order, direction, decision or regulation or any of the provisions of this Act, in respect of tolls,

Penalty.

such company, director, officer, receiver, trustee, lessee, agent or person shall for each such offence incur a penalty of not less than \$100 nor more than \$1,000. 3-4 Geo. V. c. 36, s. 205.

False bill-
ing, etc.

206. Any company or any officer or agent thereof, or any person acting for or employed by such company, who, by means of false billing, false classification, false report of weight, or by any other device or means, knowingly, wilfully or willingly suffers or permits any person or persons to obtain transportation for goods at less than the required tolls then authorized and in force on the railway of the company, shall, for each offence, incur a penalty of not less than \$100 nor more than \$1,000. 3-4 Geo. V. c. 36, s. 206.

Penalty.

Idem.

207.—(1) Any person, or any officer or agent or any incorporated company, who shall deliver goods for transportation to such company, or for whom as consignor or consignee the company shall transport goods, who knowingly or wilfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the company, its agent or agents, obtains transportation for such goods at less than the regular tolls then authorized and in force on the railway shall, for each offence, incur a penalty of not less than \$100 nor more than \$1,000.

Penalty.

Further toll.

(2) The Board may make regulations providing that any such person or company shall, in addition to the regular toll, be liable to pay to the company a further toll not exceeding fifty per centum of the regular charge.

Opening of
packages.

(3) The company may, and when ordered by the Board shall, open and examine any package, box, case or shipment,

for the purpose of ascertaining whether this section has been violated. 3-4 Geo. V. c. 36, s. 207.

208. Any person or company, or any officer or agent of any company, Unjust discrimination.

(a) who offers, grants, or gives, or solicits, accepts or receives any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic is, by any device whatsoever, transported at a less rate than that named in the tariffs then in force; or

(b) for whom the company or any of its officers or agents is by any such means induced to transport traffic, and thereby to discriminate unjustly in favour of any such person, company, officer or agent as against any other person or company; or,

(c) who aids or abets the company in any unjust discrimination,

shall for each offence incur a penalty of not less than \$100 Penalty. nor more than \$1,000. 3-4 Geo. V. c. 36, s. 208.

209. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, any departure from the tolls in such tariff, while so in force, shall, on the part of such company, its officers, agents or employees, be an offence under this Act. 3-4 Geo. V. c. 36, s. 209. Departure from tolls in tariff.

Passenger Fares on Electric Roads.

210.—(1) Notwithstanding anything to the contrary contained in any agreement with a municipal or other corporation or person or in any special Act, Limit of fares on electric railways.

(a) the fare to be taken by a company on a railway Generally. operated by electricity for each passenger shall not exceed five cents for any distance not exceeding three miles, and where the distance exceeds three miles shall not exceed two cents per mile or fraction thereof for the distance actually travelled; and in the case of children under ten years of age shall not exceed three cents for three miles or less, and where the distance exceeds three miles shall not exceed one cent per mile or fraction thereof for the distance actually travelled, but children in arms shall in all cases be carried free;

(b) pupils under seventeen years of age actually attending school shall be entitled to purchase at any office of the company where tickets are sold on a Pupils' tickets.

certificate from their principal teacher that they are *bona fide* pupils attending school eight tickets for twenty-five cents, such ticket to be used only between the hours of eight o'clock and half-past nine in the forenoon, and between half-past three and five o'clock in the afternoon, and then only for the purpose of attending and returning from school, but no such ticket shall entitle any pupil to ride a greater distance than five miles.

Certain
agreements
not affected.

(2) This section shall not alter or vary any agreement by which the company is bound to charge a lower rate of fares for passengers than those mentioned in this section, or to supply a greater number of tickets to pupils attending school or to pupils of a lesser age or at different hours or for a greater distance than mentioned in this section.

Exception of
companies
operating in
provincial
parks.

(3) This section shall not apply to a company whose tariff for passenger fares is subject to the approval of any commissioners in whom are vested any park or land owned by the Crown for the use of the public. 3-4 Geo. V. c. 36, s. 210.

Traffic Facilities.

Facilities
for traffic.

211.—(1) All companies shall, according to their respective powers, afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, for the interchange of traffic between their respective railways, and for the return of rolling stock.

Including
through
traffic.

(2) Such facilities to be so afforded shall include the due and reasonable receiving, forwarding and delivering by the company, at the request of any other company, of through traffic, and, in the case of goods shipped by car load, of the car with the goods shipped therein, to and from the railway of such other company, at a through rate; and also the due and reasonable receiving, forwarding and delivering by the company, at the request of any person interested in through traffic, of such traffic at through rates.

(3) No company shall

No undue
preference.

(a) make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or company, or any particular description of traffic, in any respect whatsoever;

Or discrim-
ination.

(b) by any unreasonable delay or otherwise howsoever make any difference in treatment in the receiving, loading, forwarding, unloading or delivery of the goods of a similar character in favour of or against any particular person or company;

Or disadvant-
age.

(c) subject any particular person or company, or any particular description of traffic, to any undue or

unreasonable prejudice or disadvantage, in any respect whatsoever; or

- (d) so distribute or allot its freight cars as to discriminate unjustly against any locality or industry, or against any traffic which may originate on its railway destined to a point on another railway in Ontario with which it connects. Allotment of freight cars.

(4) Every company which has or works a railway forming part of a continuous line of railway with or which intersects any other railway, or which has any terminus, station or wharf near to any terminus, station or wharf of any other railway, shall afford all due and reasonable facilities for delivering to such other railway, or for receiving from and forwarding by its railway, all the traffic arriving by such other railway without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf. Connecting railway to afford reasonable facilities.

(5) The reasonable facilities which every railway company is required to afford under this section shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways. Including facilities for junction of private sidings, branches, etc.

(6) Every company which grants any facilities for the carriage of goods by express to any incorporated express company or person shall grant equal facilities, on equal terms and conditions, to any other incorporated express company which demands the same. Equal facilities in case of express companies.

(7) Any agreement made between any two or more companies contrary to this section shall be unlawful and null and void. 3-4 Geo. V. c. 36, s. 211. Agreements to the contrary void.

212.—(1) Where two or more electric street railway or radial railway systems, or a street railway system and a radial railway system owned or operated by the same or by different corporations, lie contiguous to one another each corporation shall afford to the other or others all reasonable facilities for the interchange of traffic and running rights over its lines. Interchange of traffic between contiguous, street or radial lines.

(2) The nature or extent of the facilities and running rights to be afforded, and the terms and conditions upon which they shall be exercised, shall be determined by the Board, and it shall be the duty of each corporation to conform to and obey any order of the Board made in the premises. Powers of Board.

When
exercised.

(3) The order may be made on the application of any or either of the corporations or of a municipal corporation or person interested or of the Board's own motion.

Varying
order.

(4) The Board may from time to time vary the terms of any order made under the preceding subsections as it may deem just.

Exercising
powers where
system not
complete.

(5) The powers conferred on the Board may be exercised in respect of an electric street railway system which a corporation has authority to construct, the location and plans of which have been approved by the Board, notwithstanding that no part or that part only of the system has been constructed, and such powers may also be exercised notwithstanding that a corporation has the exclusive right to build and operate surface railways within the municipality or any part of it.

Or right
is exclusive.

Interpreta-
tion. "Cor-
poration."

(6) In this section "corporation" and "corporations" shall include a municipal corporation.

Extent of
powers of
Board.

(7) For the purposes of this section the Board shall have all the powers conferred by section 130.

Commence-
ment section.

(8) This section shall not come into force until a day to be named by the Lieutenant-Governor by Proclamation. 3-4 Geo. V. c. 36, s. 212.

Burden of
proof
respecting
unjust dis-
crimination,
etc.

213.—(1) Whenever it is shown that any company charges one person, company, or class of persons, or the persons in any locality, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies, or classes of persons, or to the persons in another locality, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll, or difference in treatment, does not amount to an undue preference or an unjust discrimination shall lie on the company.

What Board
may con-
sider in
determining
unjust dis-
crimination,
etc.

(2) In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the Board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing, in the interest of the public the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls.

Apportionment
of toll
for carriage
by land
and water.

(3) In any case in which the toll charged by the company for carriage, partly by rail and partly by water, is expressed in a single sum, the Board, for the purpose of determining whether a toll charged is discriminatory or contrary in any way to the provisions of this Act, may require the company to declare forthwith to the Board, or may determine what portion of such single sum is charged in respect of the carriage by rail. 3-4 Geo. V. c. 36, s. 213.

214.—(1) The Board may determine, as questions of fact, whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has, in any case, been unjust discrimination, or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this Act, or whether in any case the company has, or has not, complied with the provisions of sections 187 and 211.

Power of Board to determine what are substantially similar circumstances, undue preferences, etc.

(2) The Board may by regulation declare what shall constitute substantially similar circumstances and conditions, or unjust or unreasonable preferences, advantages, prejudices, or disadvantages within the meaning of this Act, or what shall constitute compliance or non-compliance with the provisions of such sections.

Power to make regulations in that behalf.

(3) For the purposes of section 212 the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally. 3-4 Geo. V. c. 36, s. 214.

Power to order specific works.

215. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, the tolls under such tariff while so in force shall, in any prosecution under this Act, as against such company, its officers, agents or employees, be conclusively deemed to be the lawful tolls chargeable by such company. 3-4 Geo. V. c. 36, s. 215.

Effect of tariff when filed.

Presumption against company.

General Provisions respecting Carriage.

216.—(1) No contract, condition, by-law, regulation, declaration or notice, made or given by the company, impairing, restricting, or limiting its liability in respect of the carriage of any traffic, shall, except as hereinafter provided, relieve the company from such liability, unless such class of contract, condition, by-law, regulation, declaration or notice shall have been first authorized or approved by order or regulation of the Board.

Effect of contracts, etc., impairing carriers' liability.

(2) The Board may, in any case or by regulation, determine the extent to which the liability of the company may be so impaired, restricted or limited.

Power of Board.

(3) The Board may, by regulation, prescribe the terms and conditions under which any traffic may be carried by the company. 3-4 Geo. V. c. 36, s. 216.

Terms may be prescribed.

217. Nothing in this Act shall be construed to prevent

Permission
for free or
reduced
traffic for
Government
and chari-
table pur-
poses, etc.

(a) the carriage, storage or handling of traffic, free or at reduced rates, for the Dominion, or for any provincial or municipal government, or for charitable purposes, or to or from fairs and exhibitions for exhibition thereat, or the carriage, free or at reduced rates, of destitute or homeless persons, transported by charitable societies, and the necessary agencies employed in such transportation;

Excursionists,
immigrants,
etc.

(b) the issuing of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates of immigrants or settlers and their goods or effects, or any member of any organized association of commercial travellers with his baggage;

Officers,
employees,
members of
Parliament,
the press,
Interstate
Commerce
Commission.

(c) railways from giving free carriage or reduced rates to their own officers or employees, or their families, or to former employees of any railway, or for their goods and effects, or to members of the Senate and House of Commons of Canada or of the press, or to members of the Interstate Commerce Commission of the United States and the officers and staff of such commission, and for their baggage and equipment, or to such other persons as the Board may approve or permit.

Passes.

(d) the principal officers of any railway, or any railway or transportation company, from exchanging passes or free tickets with other railways, or railway or transportation companies, for their officers and employees and their families, or their goods and effects:

Power of
Board to
regulate
such traffic.

Provided that the carriage of traffic by the company under this section may, in any particular case, or by general regulation, be extended, restricted, limited or qualified by the Board. 3-4 Geo. V. c. 36, s. 217.

When special
rates allowed.

218.--(1) Notwithstanding anything in this Act the Board may make regulations permitting the company to issue special rate notices prescribing tolls lower than the tolls in force upon the railway to be charged for specific shipments between points upon the railway, not being competitive points, if it considers that the charging of the special tolls mentioned in any such notices will help to create trade, or develop the business of the company, or be in the public interest, and not otherwise contrary to the provisions of this Act.

Notice to
be filed
with Board.

(2) Every such special rate notice, or a duplicate copy thereof shall be filed with the Board, and shall exist merely for the purpose of giving effect to the special rate charged for the specific shipment mentioned therein. 3-4 Geo. V. c. 36, s. 218.

219. The company shall furnish free transportation upon any of its trains for members of the Assembly, with their baggage, and for the members of the Board, and for such officers and staff of the Board as the Board may determine, with their baggage and equipment, and shall also, when required, haul free of charge any car provided for the use of the Board. 3-4 Geo. V. c. 36, s. 219.

Members of
Legislature
and Board
to have free
transporta-
tion.

RAILWAY CONSTABLES.

220.—(1) Any two justices of the peace or a police magistrate, within whose jurisdiction the railway runs, may, on the application of the company or of any clerk or agent of the company, thereto authorized by the company, appoint any person, being a British subject, recommended for that purpose by such company, clerk or agent to act as a constable on and along such railway.

Constables
may be
appointed to
act on the
line of any
railway.

(2) Every person so appointed shall take and subscribe an oath to the effect following:

Oath of
office.

"I, A. B., having been appointed a constable to act upon and along (*here name the Railway*), under *The Ontario Railway Act*, do swear that I am a British subject by birth (or naturalization) and not a citizen or a subject of any foreign country, and that I will well and truly serve our Sovereign Lord the King, in the office of constable, without favour or affection, malice or ill-will, and that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace, and that while I continue to hold such office, I will, to the best of my skill and knowledge, discharge the duties thereof faithfully, according to law: So help me God."

(3) Such appointment shall be made in writing signed by the official making the appointment, and the fact that the person appointed thereby has taken such oath shall be endorsed thereon by the person administering the same. 3-4 Geo. V. c. 36, s. 220.

Appoint-
ment to be
in writing.

221.—(1) Every constable so appointed and having taken such oath may act as a constable for the preservation of the peace and for the security of persons and property against unlawful acts

Powers of
such con-
stables, and
to what
localities
they shall
extend.

(a) on such railway, and on any of the works belonging thereto;

(b) on and about any trains, roads, wharves, quays, landing-places, warehouses, land and premises belonging to the company, or in any place through which such railway passes, or in which the same terminates, or through or to which any railway passes which is worked or leased by such company, and

(c) in all places not more than one-quarter of a mile distant from such railway;

Power to apprehend offenders, etc.

(2) Every such constable shall have all the powers, protection and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of offences, and for keeping the peace, possessed by any constable duly appointed. 3-4 Geo. V. c. 36, s. 221.

Duties of such constables.

222.—(1) Every such constable may take such persons as are charged with any offence against the provisions of this Act, or of any of the Acts or by-laws affecting the railway, before any justice or justices appointed for any county or district within which such railway passes.

Jurisdiction of justices.

(2) Every such justice may deal with all such cases as though the offence had been committed and the person taken within the limits of his jurisdiction. 3-4 Geo. V. c. 36, s. 222.

Dismissal by judge.

223.—(1) A judge of the County or District Court of the county or district may dismiss any such constable who is acting within his jurisdiction.

By company.

(2) The company or any manager or superintendent thereof may dismiss any such constable who is acting on the railway.

Re-appointment.

(3) No person so dismissed shall be again appointed or act as a constable for such railway without the consent of the authority by which he was dismissed. 3-4 Geo. V. c. 36, s. 223.

Record of appointment of constables.

224.—(1) The company shall, within one week after the date of the appointment or dismissal, as the case may be, of any constable appointed at the instance of the company, cause to be recorded in the office of the clerk of the peace for every county or district wherein the railway passes,—

And of dismissals.

- (a) such appointment or a certified copy thereof;
- (b) the name and designation of any such constable;
- (c) the date of the appointment;
- (d) the name of the authority making such appointment;
- (e) in the case of dismissal the fact of the dismissal of any such constable;
- (f) the date of any such dismissal; and
- (g) the name of the authority making such dismissal.

Effect as evidence.

(2) A copy of such record shall be *prima facie* evidence of the due appointment of such constable or of his dismissal as the case may be.

Book for such records

(3) The clerk of the peace shall keep a record of all such facts in a book which shall be open to public inspection, and

shall be entitled to a fee of fifty cents for each entry of appointment or dismissal, and twenty-five cents for each search or inspection, including the taking of extracts. 3-4 Geo. V. c. 36, s. 224.

225. Every such constable who is guilty of any neglect or breach of duty in his office of constable shall incur a penalty not exceeding \$80, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 225. Neglect of duty by constable. Penalty. Rev. Stat. c. 90.

POWERS OF PASSENGER CONDUCTORS AS CONSTABLES.

226.—(1) The conductor of every train carrying passengers shall have all the powers of a constable while on duty on his train, and may wear a badge or other distinguishing mark of a special constable. Conductors to have powers of constables.

(2) Every passenger who

(a) is guilty of disorderly conduct;

(b) uses any blasphemous or obscene language, or

(c) plays any game of cards or chance for money or any other thing of value,

Removal of passenger guilty of misconduct.

may, by the conductor of the train and the train servants of the company, be expelled from and put out of the train with his baggage at any usual stopping place or near any dwelling house as the conductor elects, but the conductor shall first stop the train and shall use no unnecessary force.

(3) The conductor may command the assistance of the employees of the company and of the passengers on such train to assist in such removal. 3-4 Geo. V. c. 36, s. 226. Assistance to conductor.

227. The company shall cause a notice to be placed in all passenger cars stating that the conductors have the authority and powers of constables. 3-4 Geo. V. c. 36, s. 227. Notice of authority of conductor.

STREET RAILWAYS AND RAILWAYS OPERATING ALONG HIGHWAYS.

General Provisions.

228. Unless otherwise provided, sections 229 to 263 shall apply only to street railways and street railway companies and to other railways incorporated for the purpose of operating partly or wholly along highways by electricity. 3-4 Geo. V. c. 36, s. 228. Limited application of ss. 229 to 264.

229. Every such company may, subject to the provisions of the special Act or of any agreement between the company and a municipal corporation, construct, maintain, complete and operate and, from time to time, remove and change, as required, a double or single track railway, with the neces- Powers of Company.

sary switches, side tracks and turn-outs for the passage of cars, carriages and other vehicles adapted to the same, upon and along such of the highways in any municipality to which the special Act extends, as the council of the municipality may by law authorize, and over and upon land purchased or leased by the company for that purpose, and take, transport and carry passengers upon the same by the force or power of electricity, and construct and maintain all necessary works, buildings, appliances and conveniences connected therewith. 3-4 Geo. V. c. 36, s. 229.

Freight
traffic.

220. The company may take, transport and convey goods upon its railway, but no freight or express cars shall be carried along any highway in any city, town or village over the railway unless and until the size and number of the cars and motors to be used therewith, and the hours of running the same, have been approved by the Board, nor shall any freight service be operated nor any class of freight carried on any such highway until authorized by, or except as directed by the Board. 3-4 Geo. V. c. 36, s. 230.

Agreements
between
municipality
and com-
pany as to
construc-
tion, street
repairs, etc.

231. Subject to the provisions of section 259 the company and the council of any municipality in which a railway or part of a railway is proposed to be or is constructed may enter into agreements relating to:

- (a) the construction of the railway;
- (b) the time within which the railway shall be commenced, the manner of proceeding therewith, and the time of its completion;
- (c) the paving, macadamizing, repairing, grading and cleaning of the highways upon which the railway is proposed to be or is constructed;
- (d) the construction, opening and repairing of drains and sewers;
- (e) the laying, repairing or taking up of gas and water pipes in the highways;
- (f) the location of the railway, and the particular highways along which the same may be laid;
- (g) the pattern of rails;
- (h) the time and speed of running the cars, sleighs and other conveyances;
- (i) the fares to be charged within the maximum hereinbefore mentioned; and
- (j) the amount of compensation, if any, to be paid by the company annually or otherwise. 3-4 Geo. V. c. 36, s. 231.

Municipal Street Railways.

232.—(1) The corporation of a city or town may construct, equip, maintain and operate street railways in, along and over such highways of the city or town, and subject to and upon such terms as the Board may approve; and may lease the same from time to time on such terms as may be determined on.

Power to operate street railways.

(2) The powers conferred by this section shall not be exercised in respect of any highway or part of a highway in, along, or upon which a street railway company is entitled under an agreement with the corporation of the municipality to construct and operate its railway, so long as such right shall continue to exist, and any question or dispute as to whether a street railway company is so entitled shall be determined by the Board.

Not applicable where previous agreement with a company.

(3) In addition to the powers given and conferred by subsection 1 the corporation of a city or town operating or proposing to construct or operate a street railway within its own limits may construct, equip, maintain and operate any extension of any such street railway in any adjoining municipality with the consent of the corporation of such adjoining municipality by by-law, and upon such terms as the Board may approve.

Power to operate extension of street railway in adjoining municipality.

(4) A municipal corporation which constructs, owns or manages a street railway, including any extension in any adjoining municipality, shall have and exercise the same rights and powers and be subject to the same liabilities as street railways and companies under this Act, except where the same conflict or are inconsistent with or are repugnant to the rights, liabilities, powers and duties of a municipal corporation as provided by law.

Rights and liabilities of municipal corporation operating street railway.

(5) Nothing in this section shall relieve any municipal corporation from its obligations and liabilities in respect of highways or bridges. 3-4 Geo. V. c. 36, s. 232.

Saving as to highways and bridges.

233. Where, under the provisions of an agreement between a municipal corporation and a street railway company or any person from whom a street railway company has derived its title, the corporation has become or shall hereafter become entitled to grant to another company or person the right to construct and operate a street railway on any street or part of a street upon which such first mentioned company was authorized or empowered to construct or operate its railway or any part of it, by reason of the failure of such company to construct and operate or to operate its railway thereon, such corporation, instead of granting such right to another company or person, may itself construct, operate and maintain a railway thereon either as a separate and distinct line of railway or as part of any other railway which such

Construction and operation of street railway by municipality where corporation has power to grant franchise to a company.

corporation owns or operates or has power to construct or operate. 3-4 Geo. V. c. 36, s. 233.

Sunday Cars.

Street rail-
ways, etc.,
not to be
operated on
Sunday.

234.—(1) Subject to section 235 no company or municipal corporation operating a street railway, tramway or electric railway shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity.

Exceptions.

(2) This section shall not apply to any railway company or municipal corporation which now has the right to operate its street railway, tramway or electric railway on Sunday.

Penalty.

(3) For every train run or operated in violation of this section the company shall incur a penalty of \$400, recoverable by any person suing for the same under this section and for the purpose thereof.

Application
of penalties.

(4) All money recovered under this section shall be appropriated as follows: One moiety to the plaintiff and the other to the corporation of the local municipality from which the train or car started; but if the train or car is operated by the corporation of the municipality from within the limits of which the same started the plaintiff shall receive the whole amount so recovered.

Liabilities
of conductor.

Rev. Stat. c. 90.

(5) The conductor or other person in charge of any train run or operated in contravention of this section shall, for every such offence, incur a penalty not less than \$1 nor more than \$40, recoverable under *The Ontario Summary Convictions Act*.

Application
of section.

(6) This section shall apply to all electric and street railways, whether operated on a highway or on a right of way owned by the company. 3-4 Geo. V. c. 36, s. 234.

Operation of
street cars
on Sunday
in city of
50,000.

235.—(1) Subject to subsections 2 and 3, and notwithstanding anything in this Act or any other Act, street railways may be operated on Sunday within a city having a population of over 50,000 after a majority of those voting of the electors qualified to vote at municipal elections have voted in the affirmative in answer to the question: "Are you in favour of operating street railways on Sunday?" but no person shall be entitled to vote more than once on such question.

Submitting
question to
electors.

Ascertaining
population.

(2) The question shall not be submitted until the Lieutenant Governor in Council has declared that the population of the city is over 50,000, and the Lieutenant-Governor in Council may require a census to be taken and may prescribe the nature of the census and the time and manner of taking the same.

(3) When the Lieutenant-Governor in Council has declared that the population of the city is over 50,000, the question may be submitted at the annual municipal election, if the municipal council shall have decided on or before the 1st of December preceeding the date of such election to submit the question, and shall not later than the 15th of December have given notice of such decision by public advertisement, for at least one week in each issue of some daily newspaper published in the municipality.

Declaration
as to population
con-
clusive.

(4) The provisions of *The Municipal Act* as to the submission of questions to the electors and the voting thereon and the imposition of penalties and the prevention of corrupt practices in connection with elections shall apply to a vote taken under the provisions of this section, but no person shall be entitled to vote more than once on the question.

Application
of Municip-
al Act.
Rev. Stat.
c. 192.

(5) Nothing in this section shall entitle a street railway company, which has entered into an agreement with a municipal corporation not to run cars on Sunday, to run any of their cars on any Sunday unless and until the company has received permission from the council of such corporation by by-law to run their cars on Sunday, and then only under and subject to such terms and conditions as may be contained in such by-law, and unless and until the company has also entered into an agreement with the corporation to observe the terms and conditions of the by-law. 3-4 Geo. V. c. 36, s. 235.

Agreement
not to be
affected.

Hours of Labour.

236. No employee shall be required or permitted to work for more than six days of ten hours each in any one week. 3-4 Geo. V. c. 36, s. 236.

Employees
not to work
for more
than six days.

237. Where a railway is operated on Sunday no employee shall be required or permitted to work on any Sunday when he has worked on the previous Sunday. 3-4 Geo. V. c. 36, s. 237.

Nor on two
successive
Sundays.

238. For each day on which a breach of either of the two next preceeding sections is committed the corporation or company offending shall incur a penalty of not less than \$25 or more than \$100. 3-4 Geo. V. c. 36, s. 238.

Penalty.

Protection of Wires, Pipes and Cables.

239.—(1) The company, when operating any portion of its railway across or along a highway by means of electricity conveyed by wires above ground, shall cause to be strung and maintained guard wires, as far as may be reasonably possible, sufficient to prevent telegraph, telephone or other wires strung across or along the highway from coming into contact with or falling upon the wires conveying such electricity.

Duty to erect
guard wires.

Duty to
protect water
pipes, etc.,
from injury
by electricity.

(2) The company, when operating any portion of its railway by means of electricity, shall use such means and appliances as may, as far as may be reasonably possible, prevent water pipes, gas pipes, cables and other things, placed underground from being damaged in consequence of the escape or discharge of electricity into the ground.

What to be
deemed
sufficient.

(3) Unless otherwise ordered by the Board proper bonding of the rails and connecting the rails so bonded to the electric power generator or generators with a proper and efficient system of return wires shall be taken to be a compliance with the provisions of this section.

Powers of
Board.

(4) The Board may make such order as it may deem proper to compel the proper observance of this section.

Right of
action.

(5) Any person who suffers damage by reason of the non-compliance by the company with the provisions of this section shall have a right of action against the company therefor. 3-4 Geo. V. c. 36, s. 239.

Forfeiture for Non-user.

Forfeiture
for non-user.

240.—(1) If a company at any time ceases to regularly use the whole or any part of its railway for a period of eighteen months, it shall, upon its being so ordered by the Board, forfeit the right to use the railway or the part unused, as the case may be, and the company shall also indemnify the corporation of the municipality in respect of the expenses incurred in taking up the rails and removing the poles and wires, and putting the highways in proper repair.

Lien of
municipal
corporation.

(2) The corporation shall have a lien upon the rails, poles, wires, rolling stock and other property of the company until such expense is paid. 3-4 Geo. V. c. 36, s. 240.

Additional Powers of Electric and Street Railways.

Powers as
to produc-
tion and use
of electricity.

241.—(1) A company operating its railway by electricity, and a street railway company shall also have power to

Works.

(a) construct, maintain and operate works for the production of electricity for the motive power of the railway, and for the lighting and heating the rolling stock and other property of the company;

Purchase
of water
powers.

(b) acquire by lease or purchase and to hold, utilize and develop water powers and the necessary land therewith, and to construct the necessary works for generating electricity for lighting, heating and power in operating the railway;

Arrange-
ments for
supply of
power.

(c) enter into any agreement with any person or company for supplying steam or other power for the production of electricity for the purposes of the railway, or with any electric light or electric rail-

way company, or any company supplying or furnishing electric power, for the purchase, leasing or hiring of power to run their electric motors, carriages or cars, or for lighting or heating the same, or for any other purpose for which it may be required by the company for constructing, carrying on or operating the railway;

- (d) purchase, lease or acquire by voluntary donation and to hold for any estate in the same and to sell, ^{Power to acquire lands for parks, etc.} lease, alienate or mortgage any land or premises intended and necessary or suitable for park or pleasure grounds and to improve and lay out such land as parks or places of public resort, and enter into any agreement or arrangements with the corporations of the municipalities wherein the same are situate or any of them, in respect thereto, subject to the power of the council of the municipality to pass by-laws to regulate the use of such public parks and pleasure grounds, but
- (i) none of the provisions of this clause shall have effect unless and until the council of the municipality has by by-law declared its assent ^{Saving as to assent of council.} to the company's acquiring land under and for the purpose mentioned in this paragraph, and
- (ii) no such park or pleasure grounds shall be ^{Idem as to Sunday.} used for games, picnics, concerts, excursions or other public entertainments on Sunday;
- (e) purchase the right to convey electricity for the work- ^{Acquiring rights for conveying electricity.} ing of the railway and lighting or heating the same over, through or under land other than the land of the company, and, with the consent of the councils of the municipalities affected, to purchase the right to lay conduits under, or erect poles and wires on or over such land as may be determined by the company, and along and upon any of the highways, or across any of the waters in Ontario by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, or the conduits for such electricity, upon and subject to such agreement in respect thereof as shall first be made between the company and the owners of the land affected, and between the company and the corporation of any municipality in which such works or any part thereof or of the railway may be situate, and under and subject to any by-law of the council of such municipality passed in pursuance thereof; but such works shall not be so constructed as to incommode the public use of such highways, or so as to be a nuisance thereto, or to impede the

free access to any house or other building erected in the vicinity of the same or to endanger or injuriously affect the same or to interrupt the navigation of such waters.

As to Crown
lands, public
parks, etc.

(2) The rights conferred upon the company shall not be exercised within the limits of any park vested in His Majesty for the use of the public, or any land vested in commissioners for any such park, without the approval of the Lieutenant-Governor in Council.

Construction
of railway
on high-
ways.

(3) Subject to sections 246 to 252, and section 261, no railway or street railway shall be constructed or operated along any highway or public place in any municipality until first authorized by an agreement made between the company and the corporation of such municipality, and, except under and subject to the terms of such agreement and of section 259, and of any by-law of the council of the municipality passed in pursuance thereof; and in all such cases every work, matter or thing in connection with the motive power, and the application and use thereof in so constructing and operating such railway, or the cars, carriages, engines, motors or machines thereof, shall be so constructed, erected, laid down and arranged as to impede or incommode the public use of such highway or public place as little as possible, and so as not to be a nuisance thereto, nor to interfere with the free access to any house or other building erected in the vicinity of the same, and the electric and other appliances shall be of such improved manufacture and so placed as to void so far as possible any danger to buildings or other property. 3-4 Geo. V. c. 36, s. 241.

Notice to be
given before
passing by-
law author-
izing con-
struction on
highways.

242.—(1) No municipal council, notwithstanding anything contained in this or any other Act to the contrary, shall pass a by-law authorizing any electric railway company or street railway company to lay out or construct its railway along any public highway until written or printed notices of the intended by-law, specifying the route to be taken by the railway, shall have been previously posted up for one month in six of the most public places in the municipality, and published weekly for at least four successive weeks in a newspaper published in the municipality or if there is no such newspaper then in a newspaper published in a neighbouring municipality, or if there is no such newspaper then in a newspaper published in the county or district town.

Objectors to
be heard by
council.

(2) The council shall hear in person or by counsel any one whose property may be prejudicially affected by such proposed railway who desires to be heard.

Appeal to
Board to
quash or
amend.

(3) If, after hearing such objections as may be made, the council passes the by-law any fifteen freeholders in the municipality may petition the Board to amend or quash such by-law, and upon such petition, after hearing all parties inter-

ested, the Board shall have power to amend such by-law in such manner as to the Board may seem proper, or to quash the same.

(4) The costs of such proceeding shall be in the discretion Costs. of the Board and may be fixed by the Board or taxed by one of the taxing officers of the Supreme Court.

(5) This section shall not apply to extensions within the Section not to apply to certain extensions. limits of a city or town of a street railway already constructed, nor to a by-law which requires the assent of the electors under *The Municipal Franchises Act*. 3-4 Geo. V. Rev. Stat. c. 197. c. 36, s. 242.

243.—(1) The company may, at any point or points Power to deviate. where its line runs along a highway, deviate from the highway to a right of way owned by the company if no obstruction of the highway is thereby caused, and if the rails on such deviation do not rise above or sink below the surface of the highway more than one inch they shall not be deemed an obstruction.

(2) The right conferred by this section shall not be exercised without the consent of the Board. 3-4 Geo. V. c. 36, Proviso. s. 243.

244. Notwithstanding anything in this Act, or in any statute, no municipal corporation shall grant to any company Limitation of transmission of electrical energy. any exclusive right, privilege or franchise for the transmission of electrical energy for power, light and heat over or across any highway. 3-4 Geo. V. c. 36, s. 244.

Expropriation by Street Railway or Incline Railway Companies.

245.—(1) Where the council of a municipality, by by-law, declares that it is of opinion that a company incorporated When expropriation of land by these companies may be allowed and to what extent. with power to construct a street railway or incline railway in the municipality should have powers of expropriation for the purposes of building a part of its railway between two or more points, set forth in the by-law, situate within the municipality, the company, upon registering the by-law in the proper registry office, shall, in respect of land lying between the points named, possess the powers conferred upon railway companies by the sections of this Act relating to the taking of land without the consent of the owner.

(2) Such powers shall be exercised within two years from the passing of the by-law, and not afterwards, and the land to be taken thereunder shall not exceed one chain in width. Limitation.

(3) This section shall not apply to the tract of country Niagara Falls. extending three miles above and three miles below the Falls of Niagara, and for a width inland of one mile from the River Niagara. 3-4 Geo. V. c. 36, s. 245.

Duration of Street Railway Franchises.

Limitation of
duration of
franchise.

246.—(1) No municipal council shall grant to a street railway company any privilege under this Act for a longer period than twenty-five years.

When
municipality
may assume
the owner-
ship.

(2) At the expiration of twenty-five years from the time of passing the first by-law which is acted upon conferring the right of laying rails upon any highway or at such other earlier date as may be fixed by agreement, the municipal corporation may, after giving to the company one year's notice prior to the expiration of the period limited, assume the ownership of the street railway, and all real and personal property in connection with the working thereof on payment of the actual value thereof to be determined by the Board.

How value
ascertained.

(3) In ascertaining such actual value the franchise or control of tracks upon the highways shall not be estimated as of any value whatever.

Alternative
right.

(4) If the corporation does not exercise such right, the corporation may exercise the like right at the expiration of any fifth year thereafter, upon giving one year's previous notice to the company, and the privileges of the company shall continue until the ownership is assumed by the corporation.

Who may
exercise right
to purchase.

(5) If a street railway extends beyond the limits of a city or town the corporation of the city or town may exercise the right conferred by this section.

Position of
municipality
purchasing.

(6) The corporation purchasing shall possess the same powers and authority and be subject to the same conditions, obligations and restrictions as the company, and shall be subject to all orders and directions of the Board in the same manner and to the same extent as a company operating a street railway. 3-4 Geo. V. c. 36, s. 246.

Municipal-
ity dissatis-
fied with
terms as to
railway in
certain
cases, may
apply to
the Board.

247.—(1) The council of any municipality into which a street railway runs may, at any time after the right of assuming the ownership of the railway accrues to a municipal corporation, require that the terms upon which the railway shall be operated in such municipality be determined; and the terms, if the company and the council of the municipality are unable to agree as to them, shall be determined by the Board, and such arrangement shall remain in force for ten years.

Re-adjust-
ment of
terms.

(2) At the end of that period either party may require that the terms be settled anew in like manner for another period of ten years; but such settlement or agreement shall be without prejudice to the right hereinbefore conferred upon a city or town to assume the ownership of the railway at the expiration of any fifth year. 3-4 Geo. V. c. 36, s. 247.

248. Subject to section 246 a municipal corporation purchasing may, at any time, transfer its rights to its street railway lines or any of them, and the whole or any part of the plant of the railway, to any person or company authorized to operate a street railway, on such terms and conditions as may be agreed upon by such street railway company and the municipal corporation. 3-4 Geo. V. c. 36, s. 248.

Municipality
acquiring
railway
may transfer
same to a
company.

249. A company to which any lines of street railway have been transferred by a municipal corporation shall, as respects the provisions of the next preceding section, stand in the same position as the municipal corporation from which it received such transfer. 3-4 Geo. V. c. 36, s. 249.

Position of
company so
acquiring.

Limitation of Company's Powers.

250.—(1) A company shall not, without having first obtained the permission and approval of the Board, begin the construction of its railway or of any extension of it upon any highway or part of a highway upon which it has authority to construct or extend its railway.

Railway not
to be con-
structed on
highway
without
sanction of
Board.

(2) The Board may withhold its permission and approval where it is of opinion that it has not been made to appear that the construction or extension upon such highway or part of a highway is necessary or convenient for the public service, or where in, the opinion of the Board, it is not in the public interest that the railway should be constructed or extended upon such highway or part of a highway.

When Board
may with-
hold per-
mission.

(3) This section shall apply to any addition to or alteration of the line of the railway as constructed, and shall apply notwithstanding the terms of any agreement between the company and any municipal corporation.

Additions
or altera-
tions of
line.

(4) This section shall apply to all railways however operated and to street railways. 3-4 Geo. V. c. 36, s. 250.

Application
to street
railway.

251. Nothing in this Act shall authorize the passing of any by-law, the making of any agreement, the granting of any franchise or privilege, or the doing of any other thing in contravention of *The Municipal Franchises Act*. 3-4 Geo. V. c. 36, s. 251.

Municipal
Franchises
Act.

Rev. Stat.
c. 197.

Duration of Privileges to Operate Electric Railways along Highways.

252.—(1) No municipal council shall grant to a company any privilege to operate its line along a highway for a longer period than twenty-five years.

Limitation of
duration of
franchise.

(2) At the expiration of the period for which the privilege was granted the council may extend such privilege for a further term, not exceeding twenty-five years, on such terms and

Extension.

When municipality may assume ownership.

conditions as may be agreed upon by the council and the company, or, with the consent of the Board, the corporation of such municipality may assume the ownership of that portion of the railway operated on the highways of such municipality upon payment of the actual value thereof, to be determined by the Board.

Value.

(3) In ascertaining such actual value the franchise or control of the tracks upon such highways shall not be estimated as of any value whatever.

Notice of intention to take over railway.

(4) The corporation shall not have the right to assume such ownership unless notice of the intention so to do has been given to the company one year prior to the expiration of the privilege or franchise, and in no case shall a municipal corporation assume such ownership without the consent of the Board.

Application of section.

(5) This section shall only apply to electric railways that are not street railways. 3-4 Geo. V. c. 36, s. 252.

Fenders, Brakes, etc.

Approval of fenders and other appliances.

253. — (1) A company operating any portion of its line by means of electricity along a highway shall from time to time adopt and use in the front of each motor car a fender or guard, and shall from time to time adopt and use a brake and other life saving appliances of a design approved from time to time by the Board.

Adoption.

(2) The fender, guard, brake or other life-saving appliance so approved of by the Board shall be adopted and used upon the cars of the company within the time fixed by the order approving of the same, or by any order extending such time.

Use of approved fenders.

(3) Where the cars are equipped with fenders of a class so approved by the Board the company shall not be liable for non-compliance with any by-law or agreement relating to the class of fenders to be used in any city or town, or any requirement of the engineer or other officer of the municipality under any such by-law or agreement.

Penalties for not providing fenders, etc.

(4) The company shall pay to the corporation of the municipality in which such railway is operated the sum of \$10 for each day in which any motor car is operated within such municipality without having such a fender, guard, brake or other life saving appliance thereon, except in cases of accident or unavoidable necessity.

Tests of fenders, brakes, etc.

(5) If the Board so orders the company shall allow tests to be made on any of its motors or cars, of any fender, guard, brake or other life saving appliance which the Board deems advisable to have tested with a view to ascertaining its efficiency for the purpose for which it is designed. 3-4 Geo. V. c. 36, s. 253.

Conveniences, etc.

254.—(1) Every street railway company and incline railway company shall, within six months after being so ordered by the Board, provide, furnish and thereafter maintain suitable and sanitary urinals and other conveniences for the use of the employees of the company operating its cars. Conveniences for street railway employees.

(2) Such urinals and other conveniences may be located upon land owned or provided by the company and reasonably accessible to each of the lines of railway operated by the company, and at such points as the Board may direct, within the limits of the city or town, and the employees of the company shall be allowed reasonable opportunity of access thereto. Location.

(3) The company shall incur a penalty of \$10 per day for each day upon which it neglects to provide such urinals or other conveniences. Penalty for not supplying.

(4) The Board shall determine whether the cost of such urinals and conveniences shall be borne by the company or by the city or town within the limits of which the company's lines are operated, or by both, and if by both the proportions in which the same shall be borne by them respectively, in case the parties are unable to agree, as may be determined by the Board. Cost of providing conveniences.

(5) The Board may order the city or town to provide the site for such urinals or other conveniences, upon such terms as to cost and otherwise as the Board may determine. City or town may be ordered to provide site.

(6) When so ordered by the Board such urinals and conveniences shall be open to the public as well as to the employees of the company, and when so open the Board may order the cost of the maintenance of the same to be borne by the city or town and the company in such proportions as may be deemed proper. 3-4 Geo. V. c. 36, s. 254. Board may order conveniences to be open to the public.

255.—(1) The Board may order a company to provide sanitary conveniences for the use of passengers on all passenger cars. Sanitary conveniences on cars.

(2) This section shall only apply to electric railways that are not street railways, and to steam railways. 3-4 Geo. V. c. 36, s. 255. Application.

"Pay as You Enter" System.

256.—(1) What is known as the "pay as you enter system" of collecting fares shall not be operated on any street railway car unless the design of the car has been approved by the Board. Conditions upon which "pay as you enter" cars may be operated.

(2) Every company or person who contravenes this section shall therefor incur a penalty of \$100 per day for each car operated contrary to the provisions of this section. Penalty.
3-4 Geo. V. c. 36, s. 256.

Unclaimed Property.

Notification
of owner.

257.—(1) Where unclaimed property is left in a car the company shall ascertain if possible the owner of it, and as soon as possible after such property comes into its possession, notify him of the fact by mail and of the place where the property may be claimed.

Disposal of
non-perish-
able property.

(2) Every company which has such property, not being perishable property, in its possession for three months may sell the same at public auction, after giving notice by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or town in which the sale is to take place, of the time and place at which it will be held, and such sale may be adjourned from time to time until all the articles are sold.

Perishable
property.

(3) Perishable property so left may be immediately sold without notice.

Places of
deposit.

(4) The places at which the property may be claimed shall be subject to the approval of the Board. 3-4 Geo. V. c. 36, s. 257.

Transfer in Ownership of Highways.

Agreements
with com-
panies as to
certain mat-
ters to
enure for
benefit of
municipality
owning road.

258. Where a railway, operated by electricity upon a highway or a portion thereof which is so operated, has been or shall hereafter be, constructed in a municipality under an agreement with the corporation thereof, or with the corporation having the control of the highway, and the territory or any part of the territory, in which such railway has been, or shall be constructed, is subsequently annexed to another municipality, or the highway along which such railway has been or shall be constructed, has ceased to be owned or controlled by the corporation of one municipality, and has become vested in or has been placed under the control of another corporation, then, so far as such agreement relates to the maintenance and repair of the track and roadbed of the railway or the remaining portions of the highway or highways over which the railway is operated, and to the removal of snow and ice from the company's track and the disposal thereof, the corporation of such last mentioned municipality, and any officer or person appointed for such purpose, shall be substituted for and shall have all the rights and may exercise all the powers and be subject to the same duties as the municipal corporation party to such agreement and any officer or person charged with the performance of any duty thereunder in respect of the matters aforesaid. 3-4 Geo. V. c. 36, s. 258.

Agreements with Municipalities for Operating Along Highways.

Clauses to
be included
in agree-
ments.

259. Any agreement between a municipal corporation and a company under which the company obtains a right or franchise to operate its railway along a highway, except so

far as such provisions are expressly excluded by such agreement, shall be deemed to contain provisions that

- (a) the rails of the company shall conform to the grade of the highway;
- (b) where the rails are laid upon the paved or travelled portion of a highway, or on any part thereof, they shall be laid as nearly as practicable flush with the highway, and so as to cause the least possible impediment to the ordinary traffic, and shall be so kept and maintained by the company; Rails to be flush with street, etc.
- (c) the company, so long as it uses any of its tracks on the travelled portion of a highway, shall keep in repair the whole space used on its track allowances, crossings, switches and turnouts and eighteen inches of the highway outside of its tracks; Company to keep road-way in repair.
- (d) if the company neglects to keep in repair its track allowances and crossings, switches and turnouts or to have the necessary repairs according to the agreement made thereon, the council may give notice to the company requiring such repairs to be made forthwith, and the certificate of the engineer, appointed by the council for the time being, as to the necessity for such repairs shall be binding and conclusive upon the company, and if, after giving such notice, the company does not within one week begin, and thereafter, with all reasonable diligence, carry such work of repairing to completion, the council shall have the right to cause such repairs to be made, and the company shall pay to the treasurer of the municipality the expenditure incurred in making or completing such repairs; Company neglecting to repair.
- (e) the payment of such amount shall not relieve the company from any penalty provided for the omission to repair by the agreement between the corporation and the company; Penalty.
- (f) a car or train of cars shall not be operated on the travelled portion of any highway at a greater speed than fifteen miles an hour unless authorized by the Board, and it shall be operated at a less rate of speed if so ordered and directed by the Board; Speed.
- (g) at the intersection of the railway with highways crossing or intersecting the highway upon which the railway is operated the company shall construct and keep in repair crossings of a similar character to those adopted by the municipal corporation, and shall construct underneath its track Intersecting roads.

Culverts.

allowance such culverts and waterways as are, in the opinion of the council or its engineer or other officer appointed for that purpose, necessary for drainage purposes, and shall at the entrance to private properties abutting upon the railway construct such approaches as may be directed by the council or such officer or by the Board;

Width of culverts.

(h) when the tracks are built over a culvert, the company shall, when so directed by the council or such engineer or other officer or by the Board, extend such culvert so that the portion of the highway to be travelled upon by the public shall have a width of at least eighteen feet between the nearest track and the end of the culvert upon the side of the highway opposite to such track;

Removal of snow.

(i) the company shall remove the snow from and within its tracks and switches, but any snow put upon the graded part of the highway by the company shall be evenly spread thereon in a manner to be approved by the council or its engineer or other officer;

Taking up streets by municipality.

(j) the council may at any time, after giving to the company 20 days' notice of its intention so to do, take up any part of the highway upon which the railway is constructed for the purpose of altering the grade of the highway, constructing sewers, drains, culverts or side crossings, laying down gas and water pipes or underground wires, and for all other purposes within the jurisdiction and authority of a municipal corporation without being liable for any compensation for damage that may be occasioned to the working of the railway or the works connected therewith;

Notice of council's intention.

(k) when and so often as it may be necessary for the corporation to open up a highway for the purpose of repairing it or any sewer, drain, culvert, gas or water pipe, or underground wire, or for putting in gas, water or other services, a reasonable notice shall be given to the company of the council's intention so to do, and the work thereon shall not be unnecessarily delayed, but shall be carried on and completed with all reasonable speed, due regard being had to the proper and efficient execution thereof;

Work to be done to satisfaction of municipality's engineer.

(l) all work done by the company, under the authority of the agreement, shall be done in the most substantial manner and according to the best modern practice and under the superintendence and to the satisfaction of the engineer or officer appointed by the council for such purpose, with a right of appeal to the Board;

- (m) the alignment of the company's tracks, the location of switches and turn-outs and the grades of the roadbed of its railway shall be prescribed by such engineer or other officer; Alignment, switches, turn-outs and grades.
- (n) the company shall repay to the corporation all sums paid by it to such officer or engineer for services performed by him in connection with the company's work; Company to pay for engineer.
- (o) all persons using the highway shall be at liberty to travel upon any part of the travelled roadway occupied by the company's railway, and in the same manner as upon other portions of the highway, and vehicles of every description shall be allowed upon such portion of the highway, but the company's cars shall have the first right of way over the railway, and all vehicles or persons travelling on that portion of the highway occupied by the railway shall turn out to let the trains or cars pass, and any person refusing or neglecting so to do shall incur a penalty not exceeding \$10, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 259. Right of public to use track allowances. Rev. Stat. c. 90.

Remedy for Breach of Agreement.

260.—(1) Where a railway or street railway is operated in whole or in part upon or along a highway under an agreement with a municipal corporation, and it is alleged that such agreement has been violated, the Board shall hear all matters relating to such alleged violation and shall make such order as to it may seem just, and by such order may direct the company or person operating the railway, or the municipal corporation, to do such things as the Board deems necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as in its opinion constitute a violation thereof. Board to try all cases of breach of agreement.

(2) The Board may take such means and employ such persons as may be necessary for the proper enforcement of such order, and in pursuance thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the railway, and the real and personal property of the company together with its books and offices, and may, for that purpose, assume and take over all or any of the powers, duties, rights and functions of the directors and officers of such company and supervise and direct the management of such company and its railway in all respects, including the employment and dismissal of officers and servants of the company, for such time as the Board shall continue to direct such management. May enter company's property and exercise functions of directors.

(3) Upon the Board so taking possession of such railway and property, it shall be the duty of every officer and em- Company's servants to obey Board.

ployee of the company to obey the orders of the Board or of such person as it may place in authority in the management of any or all departments of such railway.

Power of
Board to pay
out and
receive money.

(4) The Board shall, upon taking possession, have power to demand and receive all money due to and to pay out all money owing by the company, and may give cheques, acquittances and receipts for money to the same extent and in as full and ample a manner as the proper officers of the company could do if no such order had been made.

Effect of
such.

(5) Cheques, acquittances or receipts given by the Board shall be a defence to any action that may afterwards be brought by the company against the person or corporation paying over the money for which such cheques, acquittances or receipts were given.

Board not
liable for
damages.

(6) The Board and the members thereof, and its officers and employees shall not be liable to any action for acts done by them or any of them under the authority of this section.

Costs.

(7) The expenses of and incidental to proceedings taken by the Board under this section shall be in the discretion of the Board, and the Board shall have power to direct by whom and to what extent the same shall be paid.

Idem.

(8) The certificate of the Board as to the amount of such expenses shall be final. 3-4 Geo. V. c. 36, s. 260.

Radial Lines.

Conditions of
operating
in cities
and towns.

261.—(1) Notwithstanding anything in this Act the railway shall not be constructed along any highway within the limits of any city or town except upon and subject to such terms and conditions as have been agreed upon between the company and any street railway or electric railway company, already operating in such city or town, and the corporation of such city or town.

Saving of
existing
agreement.

(2) If there is an existing agreement between the corporation of such city or town and such street railway or electric railway company, the railway shall not be constructed along any such highway in contravention of the provisions of the agreement.

Terms
governing
admission
of other
railways.

(3) Where no provision is contained in the agreement for the admission of other electric or street railways then, if the council of such city or town, by by-law or resolution, requests the street railway company or electric railway company already operating in the city or town to allow its tracks or any of the highways to be used for the entrance of such other railway, or if such street railway company or electric railway company or such other railway company, by by-law or resolution, requests the council of the city or town to permit the entrance of the railway, the company so operating shall permit its tracks or any highways to be so used to some central point

in the city or town, and the corporation shall permit such other railway to enter within the limits of such city or town, upon such terms and conditions as to compensation, location of the central point, and otherwise as may be agreed upon between such other railway company, the council and such street railway or electric railway company, or as shall be settled and determined by the Board in case the council and the companies are unable to agree upon the same.

(4) Nothing in this section shall, without the consent of the corporation of the city or town, confer upon a company any right or privilege to so operate its railway for a longer period than the unexpired term of the franchise or privilege held or enjoyed by the company which, at the date of the application to the Board under this section, is operating a railway or street railway within the limits of such city or town.

Grant of franchise to radial railway not to extend beyond street railway company's franchise.

(5) At the expiration of such term a new agreement granting the right or privilege may be made for a further period not exceeding twenty-five years, and in the event of the parties being unable to agree the Board may, in its discretion, order a new agreement to be made upon such terms and conditions as shall be determined by the Board.

Renewal of agreements.

(6) This section shall not confer upon the Board power to vary or annul any provision in the agreement, or in the order of the Board allowing the entrance of such other railway, which grants to the corporation of the city or town the right to take over and assume the ownership of such other railway within the limits of such city or town on the expiration of any such term. 3-4 Geo. V. c. 36, s. 261.

Rights of municipality as to taking over railway not affected.

262. A company operating its railway in a city or town shall, in addition to such terms, conditions, regulations and restrictions as may be contained in any agreement with or by law of the city or town, be subject as to that portion of the railway within the limits of such city or town to the provisions of this Act respecting the construction and operation of street railways. 3-4 Geo. V. c. 36, s. 262.

Application of street railway sections to radial lines operating in city or town.

Examination of Motormen.

263.—(1) No person shall be employed as a motorman on any railway or street railway operated by electricity until he has been subjected to a thorough examination by an examiner or examiners, to be approved by the Board, as to his habits, physical ability and intelligence, and has undergone such training as may be prescribed by the Board, by regulation applicable generally or to the particular railway, and the examiner has reported to the Board that such person is competent to fill the position of motorman.

Examination of applicants for positions as motormen.

(2) He shall then be placed on a car with an instructor, and when the examiner is satisfied as to his capability for the position of motorman he shall so certify to the Board, and, if

Certificate by instructor as to capacity.

such person is employed, he shall, so far as reasonably possible, first serve on the lines of least travel.

Payment of
examiner.

(3) The company shall pay for the services of the examiner. 3-4 Geo. V. c. 36, s. 263.

EXAMINATION FOR COLOUR BLINDNESS.

Examina-
tion as to
eyesight.

264.—(1) No company shall employ any person in a position which requires him to distinguish form or colour signals unless, within two years next preceding his appointment, he has been examined for colour blindness on the distinct colours in actual use as signals on the company's line of railway, and also as to his eyesight generally, by some competent person employed for the purpose by the company and approved by the Board, and has received a certificate that he is not disqualified for such position by reason of colour blindness or otherwise in respect of his eyesight.

Periodical
re-exam-
ination.

(2) The company shall cause such employees to be re-examined for colour blindness, and otherwise in respect of their eyesight, at least once in every two years.

When defect
can be
remedied
by glasses.

(3) Nothing in this section shall prevent the company from continuing in its employment any person having defective sight in cases where the same can be fully remedied by the use of glasses or by other means satisfactory to the person making the examination.

Penalty.

(4) For every contravention of this or the next preceding section the company shall, for each offence, incur a penalty of \$100. 3-4 Geo. V. c. 36, s. 264.

ACTIONS FOR DAMAGES.

Limitation, Inspection.

Limitation.

265.—(1) Subject to subsection 4 of section 139 all actions for indemnity, or for any damages or injury sustained by reason of the construction or operation of the railway, shall be commenced within one year next after the time when such supposed damage is sustained, or, if there is continuation of damage, within one year next after the doing or committing of such damage ceases, and not afterwards.

Certain
actions
excepted

(2) Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, for or relating to the carriage of any traffic, or to any action against the company for damages under the provisions of this Act respecting tolls.

Company
not relieved
by reason of
inspection, etc.

(3) No inspection had under this Act, and nothing in this Act and nothing done or ordered, or omitted to be done or ordered under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company of or from

or in any wise diminish or affect any liability or responsibility resting upon it by law, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance, or non-feasance, of such company.
3-4 Geo. V. c. 36, s. 265.

Damages for Defective Machinery.

266.—(1) No company owning or operating a railway in whole or in part in Ontario shall adopt or promulgate any rule or regulation for the government of its servants or employees, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which such employee directly or indirectly promises or agrees to hold such company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belonging, and any such rule, regulation, contract or agreement shall be void and of no effect.

Contracts waiving right of employees damages to void.

(2) No such company shall demand, accept, require, or enter into any contract or agreement with any person about to enter or in the employ of the company whereby such person agrees to surrender or waive any right to damages for personal injury or death against any such company thereafter arising; and all such contracts and agreements shall be void.

Not to be entered into.

(3) Every company contravening or aiding in the contravention of this section shall, for each offence, incur a penalty of five hundred dollars, to be recovered in any court of competent jurisdiction by any person suing therefor.

Penalty

(4) No such company shall knowingly or negligently use or operate any car, motor or locomotive that is defective, or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective.

Company not to operate defective machinery

3-4 Geo. V. c. 36, s. 266.

WAGES OF LABOURERS.—SUBSIDIES.

267.—(1) Where this Legislature has heretofore granted or hereafter grants financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the locality in which the work is being performed; and if there is no current rate in such locality, then a fair and reasonable rate.

Rate of wages of labourers on construction of lines subsidized by Legislature.

Decision of
Board final.

(2) If a dispute arises as to what is such current rate, or a fair and reasonable rate, it shall be determined by the Board whose decision shall be final. 3-4 Geo. V. c. 36, s. 267.

Interpretation. 268.—(1) In this section

"Settlers"
"Prospectors."

(a) "Settlers" and "Prospectors" shall include a person who produces evidence to the proper officer of the railway company that he is an intending settler or prospector, as the case may be, in a district through which such railway runs, which evidence shall be deemed sufficient if it complies with the requirements of any Order in Council in that behalf, and shall also mean and include every member of the family of a settler or prospector residing with him using such railway or any part thereof in connection with such prospecting and settling.

"Toll."

(b) "Toll" shall include any rate or charge for any passenger, animal, vehicle, goods, merchandise, or thing conveyed on the railway.

subsidies to
be subject
to certain
conditions
as to special
rates to
settlers, etc.

(2) Every subsidy heretofore granted out of the Consolidated Revenue Fund in aid of any railway, as to any part thereof which is still unearned, and every such subsidy hereafter granted, in addition to all other lawful requirements, shall be subject to any conditions which may be imposed by the Lieutenant Governor in Council respecting the tolls to be charged to "Settlers" or "Prospectors" using any such subsidized railway or any part thereof in connection with their prospecting and settling in any district through which the railway runs, either for freight or passenger service.

In default

Deduction
from
subsidy.

(3) In default of compliance with such conditions, or any of them, there may be deducted and retained from any money payable in respect of such subsidy such amount as the Lieutenant-Governor in Council may deem proper, and the railway company or any assignee of a railway company claiming such subsidy shall not be entitled to receive payment of the same, or if such subsidy has been paid over prior to such default the company operating such railway shall forfeit such part thereof as may be determined by the Lieutenant Governor in Council and the same may be recovered back from such company at the suit of the Attorney-General in any court of competent jurisdiction.

However,

Company
may

(4) Every such subsidy shall further be subject to the condition that the workmen, labourers or servants employed in or about the construction and operation of the railway shall be paid such rate of wages as may be currently payable to workmen, labourers and servants engaged in similar occupations in the district in which such railway is constructed and operated, and upon breach of such condition by the railway company there may be deducted and retained from any money payable in respect of such unearned subsidy such

amount as the Lieutenant-Governor in Council may deem proper, and if the subsidy has been paid over before such breach such part thereof as may be determined by Order in Council may be recovered back from such railway company at the suit of the Attorney-General in any court of competent jurisdiction.

(5) Every railway company entitled to a subsidy either in money or in land under any Act of this Legislature, the whole or part of which is still unearned, shall, as far as practicable, construct, equip and operate its lines of railway with railway supplies and rolling stock made, purchased or procured in Canada, if the same can be obtained as cheaply and upon as good terms in Canada as elsewhere, having regard to quality, unless the Lieutenant-Governor in Council approves of the same being procured elsewhere.

(6) No person shall be employed in the construction of any railway receiving a subsidy either in money or in land who is a citizen or subject of any country having an alien labour law which has the effect of excluding Canadians from employment upon the public works of such country or on other works therein.

(7) For every contravention of subsection 6 the company shall incur a penalty of \$20 per day for each person so employed during the whole period of such employment.

3-4 Geo. V. c. 36, s. 268.

269.—(1) Whenever it is made to appear to the Provincial Secretary that any railway owned by a company incorporated by Act of this Legislature, the construction of which has been aided by a subsidy from the Government of Ontario, cannot by reason of the condition of such railway or of its equipment be safely and efficiently operated, the Provincial Secretary may apply to the Board for an order that the railway, or its equipment, or both, shall be put in a safe and efficient condition, which order the Board is hereby authorized to make after such notice to the president or manager of the company and the trustee of the bondholders, if any, as to the Board seems reasonable; and the Board may, by order, direct what repairs, improvements or additions shall be made to the railway, or equipment, or both, and within what times the same shall be undertaken and completed respectively.

(2) If the company fails to comply with such order of the Board the Lieutenant-Governor in Council may, upon the recommendation of the Provincial Secretary, approve of such order, and direct that a copy of such order and of the order of the Lieutenant-Governor in Council approving thereof, certified by the secretary of the Board and the Clerk of the Executive Council respectively, shall be filed by the Provincial Secretary in the office of the registrar of deeds of each county through which such railway runs, and upon such orders being so filed there shall, *ipso facto*, be created a first lien or

Where
supplies to
be purchased.

Alien
labour.

Penalty.

Subsidized
railways
must be in
safe and
efficient
condition.

Application
to Board.

On failure
of company
to comply
with order,
a lien may
be created.

mortgage upon the railway and its equipment in favour of His Majesty for the amount of the subsidy, which shall immediately thereupon become due and payable to His Majesty.

Enforce-
ment of
lien.

(3) Such lien may be enforced by His Majesty in the same manner and by the like proceedings as any other lien upon property may be enforced by His Majesty in the Supreme Court, and the said court may order such railway and its equipment to be sold to satisfy such lien, and pending such lien may appoint a receiver to manage and operate such railway.

Application
of money
realized.

(4) Any money realized from such sale may, with the consent of the purchaser, be applied by the Provincial Secretary, under the direction of the Board, towards the repair and improvement of such railway and equipment so far as the same may be deemed necessary by the Provincial Secretary, and any money so realized, and not in the opinion of the Provincial Secretary required for such repairs and improvements, may be paid to the company owning the railway at the time of the sale, or to the trustee for bondholders, in the event of there being outstanding bonds secured by mortgage or otherwise upon such railway. 3-4 Geo. V. c. 36, s. 269.

HOURS OF LABOUR.

Limit of
duration of
continuous
employment.

270. No company operating a line of railway, of twenty miles in length or over, shall require or permit a conductor, engineer, motorman, fireman, trainman, despatcher or signal man who has worked in any capacity for sixteen consecutive hours to go again on duty to perform any kind of work unless he has had at least six hours' rest. 3-4 Geo. V. c. 36, s. 270.

Power to
regulate
labour of
street railway
employees.

271.—(1) The Board may regulate the hours during which conductors and motormen, employees of a street railway company, may be required or permitted to work, but in no case shall an employee be permitted to work more than six days in a week or ten hours per day, and, whenever practicable and reasonable, such ten hours' work shall be performed within twelve consecutive hours.

Agreements
not to affect
power to
regulate.

(2) The power conferred by subsection 1 may be exercised notwithstanding the provisions of any agreement between a municipal corporation and a railway company as to hours of labour.

Penalty.

(3) Every company which, and every director, superintendent, manager or officer of a company who contravenes the provisions of any order of the Board, made under the authority of subsection 1, or contravenes any of the provisions of this section, shall, for each contravention, incur a penalty of not less than \$100 nor more than \$250, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 271.

RETURNS.

272.—(1) Every company shall annually prepare returns Annual returns to be prepared. in duplicate, in accordance with the forms for the time being required and furnished by the Board, of its capital, traffic, and working expenditure, and of all other information required.

(2) Such returns shall be dated and signed by, and Attestation. attested upon the oath of, the secretary or some other chief officer of the company, and shall also be attested upon the oath of the president, or in his absence of the vice-president or manager of the company.

(3) Such returns shall be made for the period beginning What period to be included. from the date to which the then last yearly returns made by the company extend, or if no such returns have been previously made from the commencement of the operation of the railway and ending with the last day of June in the preceding year.

(4) The duplicate so dated, signed and attested in manner When to be made. aforesaid shall be transmitted by the company to the Board by registered post within three months after the 30th day of June in each year.

(5) The Board shall transmit the returns so made to the Transmission of returns to Assembly. Provincial Secretary and the same shall be laid before the Assembly forthwith if the Assembly is then in session, or if it is not then in session within fifteen days after the commencement of the next session. 3-4 Geo. V. c. 36, s. 272.

273.—(1) Every company shall annually, or more frequently if the Board so requires, make to the Board, under the oath of the president, secretary or superintendent of the company, a true and particular return in duplicate of all accidents and casualties, whether to persons or to animals or other property, which have occurred on the property of the company or in connection with the operation thereof, setting forth—

(a) the causes and natures of such accidents and casualties;

(b) the points at which such accidents and casualties occurred, and whether by night or by day; and

(c) the full extent of such accidents and casualties, and all the particulars thereof.

(2) Such return shall be made for the period beginning What period to be included. from the date to which the then last return made by the company extended, or, if no such return had been previously made, from the commencement of the operation of the railway and ending with the last day of June in the current year.

Copies of
by-laws
to be
furnished.

(3) Every company shall also, when required by the Board, return a true copy of the existing by-laws of the company and of its rules and regulations for the management of the company and of its railway, or of such other undertaking or business of the company as it is authorized to carry on, 3-4 Geo. V. c. 36, s. 273.

Additional
returns of
accidents

274. The Board may order and direct any company to make up and deliver to the Board from time to time, in addition to such periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Board deems necessary and requires for its information with a view to public safety. 3-4 Geo. V. c. 36, s. 274.

Forms

275. The Board may order and direct the form in which such returns shall be made. 3-4 Geo. V. c. 36, s. 275.

Returns to
Board of.

276.—(1) The Board may, from time to time, by notice served upon the company, or any officer, servant or agent of the company, require it, or such officer, servant or agent, to furnish the Board, at or within any time stated in such notice, a written statement or statements showing in so far, and with such detail and particulars, as the Board requires,

Assets and
liabilities.

(a) the assets and liabilities of the company;

Of stock
issued and
outstanding.

(b) the amount of its stock issued and outstanding and the date at which any such stock was so issued;

Considera-
tion for
issue.

(c) the amount and nature of the consideration received by the company for such issue, and in case the whole of such consideration was not paid to the company in cash, the nature of the service rendered to or property received by the company for which any stock was issued;

Of earnings
and expendi-
ture.

(d) the gross earnings or receipts or expenditure by the company during any periods specified by the Board, and the purposes for which such expenditure was made;

Of bonuses

(e) the amount and nature of any bonus, gift or subsidy received by the company from any source whatsoever, and the source from which and the time when, and the circumstances under which, the same was so received or given;

Of bonds.

(f) the bonds issued at any time by the company, and what portion of the same are outstanding and what portion, if any, have been redeemed;

Consideration
for bonds.

(g) the amount and nature of the consideration received by the company for the issue of such bonds;

- (h) the character and extent of any liabilities outstanding, chargeable upon the property or undertaking of the company, or any part thereof, and the consideration received by the company for any such liabilities, and the circumstances under which the same were created; Of secured liabilities.
- (i) the cost of construction of the company's railway or of any part thereof; Of cost of acquirements
- (j) the amount and nature of the consideration paid or given by the company for any property acquired by it; Of cost of property.
- (k) the particulars of any lease, contract or arrangement entered into between the company and any other company or person; and Of leases and contracts.
- (l) generally, the extent, nature, value and particulars of the property, earnings, and business of the company. Generally.

(2) The Board may summon, require the attendance of, and examine under oath, any officer, servant or agent of the company, or any other person, as to any matters included in such return, or which were required by the notice aforesaid to be returned to the Board, and as to any matter or thing which, in the opinion of the Board, is relevant to such return, or to any inquiry which the Board deems it expedient to make in connection with any of the matters in this section mentioned, and for such purposes may require the production to the Board of any books or documents in control of the company, or of such officer, servant, agent or person. Powers of Board as to evidence respecting returns. Or on inquiries respecting same. Production of documents

(3) Any information furnished to the Board by any such return, or any evidence taken by the Board in connection therewith, shall not be open to the public or published, but shall be for the information of the Board only. Information for Board only.

(4) The Lieutenant-Governor in Council may nevertheless require the Board to communicate to him in Council any or all information obtained by it in manner aforesaid. Or for Lieut.-Gov. in Council.

(5) The Board may authorize any part of such information to be made public when and in so far as there may appear to the Board to be good and sufficient reasons for so doing, but if the information so proposed to be made public by the Board is of such a character that the company would, in the opinion of the Board, be likely to object to the publication thereof, the Board shall not authorize such information to be published without notice to the company and hearing any objection which the company may make to such publication. 3-4 Geo. V. c. 36, s. 276. Board may authorize publication.

277. If any company or officer, servant, or agent thereof fails or neglects to make any of the returns required by this Act or by the Board under the authority thereof when and Refusal to make returns

Penalties.

Rev. Stat. c. 90.

as required by the Board, or fails to make any such return to the utmost of its or his knowledge or means of knowledge, the company, and every such officer, servant or agent, so in default, shall severally incur a penalty recoverable under *The Ontario Summary Convictions Act* not exceeding \$10 for every day during which such default continues. 3-4 Geo. V. c. 36. s. 277.

Making false
returns
to Board.

Rev. Stat. c. 90.

278.—(1) If any company, or officer, servant or agent thereof wilfully or negligently makes any false return, or any false statement in any such return, the company, and any such officer, servant or agent offending shall be severally liable to a penalty not exceeding \$500, recoverable under *The Ontario Summary Convictions Act*.

Penalty.

(2) Every such officer, servant or agent so offending shall also, on conviction, be liable to imprisonment for any period not exceeding six months. 3-4 Geo. V. c. 36, s. 278.

INVESTIGATION OF ACCIDENTS.

Notice of
accident.

279.—(1) Every company shall, as soon as possible, and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident attended with personal injury to any person using the railway or to any employee of the company, or whereby any bridge, viaduct, culvert or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof, with full particulars, to the Board.

Penalty for
omission.

(2) Every company which wilfully and negligently omits to give such notice shall incur a penalty of \$100 for every day during which the omission to give the same continues.

Form of
notice and
investigation
into accidents.

(3) The Board may, by regulation, declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged.

Inquiries.

(4) The Board may inquire into all matters and things which it deems likely to cause or prevent accidents, and the causes of, and the circumstances connected with, any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

Order
thereupon.

(5) The Board may order the company to suspend or dismiss any employee of the company whom it may deem to have been wilfully negligent in respect of any such accident.

Inclusion
in annual
report.

(6) The Board shall include in its annual report to the Lieutenant Governor in Council the result of any such enquiry with such recommendations as to it may seem proper. 3-4 Geo. V. c. 36, s. 279.

280. Returns and notices relating to accidents made or given in pursuance of the provisions of this Act shall not be admissible in evidence in any court except to enforce the penalties for failure or neglect to furnish a return where it is incomplete or inaccurate. 3-4 Geo. V. c. 36, s. 280.

ANIMALS AT LARGE.

281.—(1) When any horse, sheep, swine or other cattle at large, whether upon the highway or not, get upon the property of the company and by reason thereof damage is caused to or by such animal the person suffering such damage shall, subject to the provisions of the next following section, be entitled to recover the amount of such damage in any court of competent jurisdiction unless the company establishes that such animal got at large through the negligence or wilful act or omission of the owner or his agent, or of the custodian of such animal or his agent; but nothing herein shall be construed as relieving any person from the penalty imposed by section 283.

(2) No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway within half a mile of the intersection of such highway with any railway at rail-level, unless they are in charge of some competent person or persons to prevent their loitering or stopping on such highway at such intersection, or straying upon the railway.

(3) The fact that any such animal was not in charge of some competent person shall not, if the animal was killed or injured upon the property of the company and not at a point of intersection with the highway, deprive the owner of his right to recover.

(4) All horses, sheep, swine or other cattle found at large contrary to the provisions of this section may, by any person who finds them at large, be impounded in the pound nearest to the place where the same are so found, and the pound-keeper with whom they are impounded shall detain them in like manner, and subject to like regulations as to the care and disposal thereof as in the case of cattle impounded for trespass on private property.

(5) If the horses, sheep, swine or other cattle of any person, which are at large contrary to the provisions of this section, are killed or injured by any train at such point of intersection he shall not have any right of action against any company in respect of the same being so killed or injured.

(6) This section shall apply only to railways operating by steam or electricity upon a right of way owned by the company. 3-4 Geo. V. c. 36, s. 281.

282. No person who suffers damage, proveable under the next preceding section or by reason of the company failing

to comply with section 114, shall have any right of action against such company for such damage if it was quashed by reason of any person

gates not
closed.

(a) for whose use any farm crossing is furnished failing to keep the gates at each side of the railway closed when not in use; or,

Or wilfully
left open.

(b) wilfully leaving open any gate on either side of the railway provided for the use of any farm crossing, without some person being at or near such gate to prevent animals from passing through the gate on to the railway; or

Or fence
taken down.

(c) other than an officer or employee of the company while acting in the discharge of his duty taking down any part of a railway fence; or

Or cattle
turned within
railway
enclosure.

(d) turning any such horse, sheep, swine or other cattle upon or within the inclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person using all reasonable care and precaution to avoid accidents; or,

Or railway
used with-
out consent.

(e) except as authorized by this Act, without the consent of the company, riding, leading or driving any such horse, sheep, swine or other cattle, or suffering the same to enter upon any railway, and within the fences and guards thereof. 3-4 Geo. V. c. 36, s. 282.

OFFENCES AND PENALTIES.

Offences.

283. Every person who

Leaving
gates open.

(a) wilfully leaves open any gate on either side of the railway, provided for the use of any farm crossing, without some person being at or near such gate to prevent animals passing through it on to the railway; or,

Taking down
fences.

(b) not being an officer or employee of the company acting in the discharge of his duty, takes down any part of a railway fence; or

Turning
animals
into railway
inclosure.

(c) turns any horse, sheep, swine or other cattle upon or within the inclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person, using all reasonable care and precaution to avoid accidents; or

Allowing
animals to
go upon
railway.

(d) except as authorized by this Act, without the consent of the company, rides, leads or drives any horse, sheep, swine or other cattle, or suffers any

such horse or animal to enter upon the railway,
and within the fences and guards thereof;

shall for every such offence incur a penalty of \$20, recover- Penalty.
able under *The Ontario Summary Convictions Act*. Rev. Stat. c. 90.

(2) Every such person shall also be liable to the company Damages to the company.
for any damage to the property of the company, or for which
the company may be responsible by reason of any such act or
omission.

(3) Every person guilty of any offence under this section Damages to person injured.
shall, in addition to the penalty and liability therein provided,
be liable to pay to any person injured by reason of the com-
mission of such offence all damages thereby sustained.
3-4 Geo. V. c. 36, s. 283.

284.—(1) No company shall, either directly or indirectly, Purchasing stock in other companies.
employ any of its funds in the purchase of its own stock or in
the acquisition of any shares, bonds or other securities issued
by any other railway company; but this shall not affect the
powers or rights, if any, which any company in Ontario now
has or possesses by virtue of any special Act to acquire, have
or hold shares, bonds or other securities of any railway com-
pany.

(a) The acquisition of each share, bond or other security,
or interest, shall be deemed a separate contraven-
tion of this subsection.

(2) Every director of a railway company who knowingly Liability of directors.
permits the funds of such company to be applied, either
directly or indirectly, in contravention of subsection 1 shall
incur a penalty of \$500 for each such contravention.

(3) Such penalty shall be recoverable on information filed Penalty, recovery and application.
in the name of the Attorney-General, and one-half thereof
shall belong to His Majesty and the other half thereof shall
belong to the informer. 3-4 Geo. V. c. 36, s. 284.

285.—(1) Every person not connected with the railway, Walking on track prohibited.
or employed by the company, who walks along the track
thereof, except where the same is laid across or along a high-
way, shall incur a penalty not exceeding \$10, recoverable Penalty.
under *The Ontario Summary Convictions Act*. Rev. Stat. c. 90.

(2) Every person who

Destruction of fences, bridges, etc.

(a) wilfully breaks down, injures, weakens or destroys
any gate, fence, erection, building or structure of
a company; or

(b) removes, obliterates, defaces or destroys any printed Defacing notices, etc.
or written notice, direction, order, by-law or
regulation of a company, or any section of or
extract from this Act or any other Act of this
Legislature which a company or any of its officers

or agents have caused to be posted, attached or affixed to or upon any fence, post, gate, building or erection of the company, or any car upon any railway;

Fraudulently
stealing
a travel
without
paying fare.

(c) enters upon any railway train without the knowledge or consent of an officer or servant of the company with intent fraudulently to be carried upon such railway train without paying fare thereon;

Obstructing
railway
authorities.

(d) wilfully obstructs or impedes any officer or agent of any company in the execution of his duty upon any train, railway, or upon any of the premises of the company; or,

Trespassing.

(e) not being an employee of the company, wilfully trespasses by entering upon any of the stations, cars or buildings of the company in order to occupy the same for his own purposes,

Penalty.

shall incur a penalty not exceeding \$50, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 285.

Using level
crossings.

286. Any person who uses any highway crossing at rail level for the purpose of passing on foot along such highway across the railway, except during the time when such highway crossing is used for the passage of carriages, carts, horses, sheep, swine or cattle along such highway, shall incur a penalty not exceeding \$10, recoverable under *The Ontario Summary Convictions Act* if

Penalty.

Rev. Stat. c. 30.

Of foot bridges.

(a) the company has erected and completed, pursuant to the order of the Board, over its railway at or near, or in lieu of, such highway crossing a foot bridge, or foot bridges, for the purpose of enabling persons passing on foot along such highway to cross the railway by means of such bridge or bridges; and

Maintained.

(b) such foot bridge is maintained, or such foot bridges are maintained, by the company in good and sufficient repair. 3-4 Geo. V. c. 36, s. 286.

Penalty for
erection,
etc., of
structures
in violation
of this Act.

287. Every company which erects, operates or maintains any bridge, approach, tunnel, viaduct, trestle, or any building, erection or structure, in violation of this Act or of any order or regulation of the Board, shall, for each offence, incur a penalty of \$50. 3-4 Geo. V. c. 36, s. 287.

Liability of
company,
directors,
etc., in cer-
tain cases.

288.—(1) Any company, or any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by such company, that does, causes or permits to be done any matter, act or thing contrary to the provisions of this or the special Act, or to the orders or direc-

tions of the Lieutenant-Governor in Council, or of the Board made hereunder, or omits to do any matter, act or thing thereby required to be done on the part of any such company, or person, shall, if no other penalty is provided in this or the special Act for any such act or omission, incur, for each offence, a penalty of not less than \$20 and not more than \$5,000, in the discretion of the court before which the same is recoverable. Penalty.

(2) Such company, director, officer, receiver, trustee, lessee, agent or person shall also, in any case, in addition to any such penalty, be liable to any person injured by any such act or omission for the full amount of damages sustained thereby, and such damages shall not be subject to any special limitation, except as expressly provided for by this or any other Act. 3-4 Geo. V. c. 36, s. 288. Liability for damage.

289. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company while on duty shall incur a penalty not exceeding \$25 recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 289. Selling liquor to railway employees on duty. Rev. Stat. c. 90

290. Every conductor, locomotive engineer, motorman, train despatcher, telegraph operator, station agent, switchman, signal man, bridge tender, or any other person who is intoxicated or under the influence of liquor while on duty, in charge of or in any employment having to do with the movement of trains upon any railway, shall incur a penalty not exceeding \$400, recoverable under *The Ontario Summary Convictions Act*, and shall, upon conviction, also be liable to imprisonment for any term not exceeding five years, or both, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave as causing injury to any person or property, or as exposing or likely to expose any person or property to injury, although no actual injury occurs. 3-4 Geo. V. c. 36, s. 290. Intoxication while on duty. Rev. Stat. c. 90

291. Every person who wilfully or negligently violates any lawful by-law, rule or regulation of the company shall incur, on summary conviction, for each offence a penalty not exceeding the amount therein prescribed or, if no amount is so prescribed, a penalty not exceeding \$20, recoverable under *The Ontario Summary Convictions Act*, but no such person shall be convicted of any offence unless at the time of the commission thereof a printed copy of such by-law, rule or regulation was posted in some conspicuous place at or near the station at which the offender entered the train or in the passenger cars of the train. 3-4 Geo. V. c. 36, s. 291. Contravention of rules of company. Penalty. Rev. Stat. c. 90

Damaging
freight with
intent to
steal contents.

292. Every person who unlawfully

(a) bores, pierces, cuts, opens or otherwise injures any cask, box or package which contains wine, spirits or other liquors, or any case, box, sack, wrapper, package or roll of goods in, on or about any car, wagon, boat, vessel, warehouse, station house, wharf, quay or premises of or belonging to any company, or

Drinking or
wasting liquor.

(b) drinks or wilfully spills or allows to run to waste any such liquors or any part thereof

Penalties.

shall incur a penalty not exceeding \$20, recoverable under Rev. Stat. c. 90. *The Ontario Summary Convictions Act*, and shall be liable to the person aggrieved for any damages sustained by reason of such wrongful act. 3-4 Geo. V. c. 36, s. 292.

Interfering
with electric
wires, poles
etc., or
notices.

293. Every person who wilfully breaks down, injures, weakens, destroys or interferes with any pole, wire, insulator, structure or erection for carrying wires of an electric railway company, or for the transmission of electric power, or who shoots at any insulator on any such poles, erections or structures with fire-arms of any kind, or throws stones or other missiles at, or breaks, or attempts to break the same in any way, or flings or causes to be placed any wire, rope, string or stick at, upon or across the said wires, or without authority climbs any of such poles or structures or erections used for transmitting electric current, or removes, obliterates, defaces or destroys any printed or written notice, direction, order, by-law or regulation of the Board or of the company or any section or extract from this Act or any other Act of this Legislature, attached or affixed to or upon any pole, tower, fence, post, gate, building or erection of the company, shall incur a penalty not less than \$15 and not exceeding \$100, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 293.

Rev. Stat. c. 90.

Each day's
contravention
of this Act, or
order
hereunder,
a distinct
offence.

294. When the violation of, or failure to comply with, any provision of this Act, or with any regulation, order or direction of the Board, or of any inspecting engineer, is made an offence subject to penalty, by this Act or by any regulation made thereunder, each day's continuance of such violation or failure to comply shall constitute a new and distinct offence. 3-4 Geo. V. c. 36, s. 294.

Act or omis-
sion of
officer, etc.,
deemed to
be act or
omission of
company.

295.—(1) For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any regulation, order, or direction of the Board, or of any inspecting engineer, made under this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by the company shall, if within the scope of his employment, in every case be also deemed to be the act, omission or failure of such company as well as that of the person.

(2) Anything done or omitted to be done by the company, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by the company, would constitute an offence under this Act, shall also be held to be an offence committed by such company, and upon conviction thereof the company shall be subject to the like penalties as are prescribed by this Act with reference to such persons. 3-4 Geo. V. c. 36, s. 295.

296. No penalty or punishment for a contravention of this Act or of the special Act by the company shall exempt the company from the forfeiture of the privileges or franchise conferred on it by such Acts, or by any agreement between the company and any municipal corporation if, by the provisions thereof or by law, the same be subject to forfeiture by reason of such contravention. 3-4 Geo. V. c. 36, s. 296.

RECOVERY OF PENALTIES.

297. If any company has been adjudged to pay a penalty under this Act such penalty shall be the first lien or charge upon the railway, property, assets, rents and revenues of the company. 3-4 Geo. V. c. 36, s. 297.

298. No prosecution shall be had against any company or any municipal corporation for any penalty under this Act where the penalty may exceed \$100 without the leave of the Board being first obtained. 3-4 Geo. V. c. 36, s. 298.

299. All penalties incurred under any of the sections of this Act, unless otherwise provided, may be recovered by action in the name of His Majesty by the Attorney-General of Ontario; and all penalties recovered under this Act shall, unless otherwise herein expressly provided, be paid to the Treasurer of Ontario to the credit of "The Consolidated Revenue Fund." 3-4 Geo. V. c. 36, s. 299.

TRANSMISSION OF POWER ON RIGHT OF WAY.

300. Upon receiving authority in that behalf from the Lieutenant-Governor in Council, the Board, its officers, agents and servants may at all times enter upon the right of way of the company and may dig up the same, erect thereon all necessary poles, or lay all necessary conduits, and erect, place and put down all cables, wires and poles for the transmission of electrical or other power from any point in Ontario to the works and plant of any municipal corporation for the distribution of such power within the limits of the municipality, but the track and traffic, wires and poles of the company shall not be injured, removed or otherwise dealt with in the exercise of the powers hereby conferred except under and subject

to any agreement which may be entered into between the Lieutenant-Governor in Council and the company. 3-4 Geo. V. c. 36, s. 300.

USE OF RAILWAY BY DOMINION GOVERNMENT.

Provision as to the carriage of His Majesty's mail, etc.

301.—(1) His Majesty's mail, His Majesty's naval or military forces or militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on His Majesty's service shall at all times, when required by the Postmaster-General, the Commander of the Forces, or any person having the superintendence and command of any police force, and with the whole resources of the company if required, be carried on the railway on such terms and conditions and under such regulations as may be made by the Governor-General in Council or the Lieutenant-Governor in Council.

Government to have exclusive use of telegraph.

(2) The company shall, when required so to do by the Governor-General or Lieutenant-Governor, or by any person thereunto authorized by either of them, place any electric, telegraph and telephone lines, and any apparatus and operators which it has, at the exclusive service of his Government, receiving thereafter reasonable compensation for such service. 3-4 Geo. V. c. 36, s. 301.

CONVEYANCES OF LAND.

Conveyances of land to Company.

302. Conveyances of land to the company, for the purposes of and powers given by this Act, made in the form set forth in Schedule "A" to this Act or to the like effect, shall be sufficient conveyance to such company, its successors and assigns of the estate or interest therein mentioned, and sufficient bar of dower respectively of all persons executing the same: and such conveyances shall be registered in the same manner, and upon such proof of execution as is required under the registry laws of Ontario: and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof, and the certificates indorsed on the duplicates thereof. 3-4 Geo. V. c. 36, s. 302.

SCHEDULE "A."

(Section 302.)

Know all men by these presents that I (or we) (*insert the name or names of the vendor or vendors*) in consideration of _____ dollars paid to me (or us) by The _____ Railway Company, the receipt whereof is hereby acknowledged, do grant and convey unto the said company, and I (or we) (*insert the name or names of any other party or parties*) in consideration of _____ dollars paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant and release all that certain parcel (or those certain parcels, *as the case may be*) of land (*describe the land*) the same having been selected and laid out by the said company for the purpose of its railway, to hold with the appurtenances unto the said The _____ Railway Company, their successors and assigns forever (*here insert any other clauses, covenants and conditions required*), and I (or we) the wife (or wives) of the said _____ do hereby bar my (or our) dower in the said lands.

As witness my (or our) hand and seal (or hands and seals), this _____ day of _____ one thousand nine _____ hundred and _____ Signed, sealed and delivered in the presence of _____

CHAPTER 186.

An Act respecting the Ontario Railway and
Municipal Board.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Short title. 1. This Act may be cited as *The Ontario Railway and
Municipal Board Act*. 3-4 Geo. V. c. 37, s. 1.

Interpre- 2. The interpretation sections of *The Ontario Railway*
tation. *Act* shall apply to this Act. 3-4 Geo. V. c. 37, s. 2.

3. In this Act,

"Public (a) "Public Utility" shall mean and include any
utility." waterworks, gasworks, electric heat, light and
power works, and telegraph or telephone lines or
any works supplying the general public with
necessaries or conveniences.

"Railway." (b) "Railway" shall include a street railway. 3-4
Geo. V. c. 37, s. 3.

Application 4. The provisions of this Act relating to railways shall
of Act. apply to all railways, whether operated by steam, electricity
or other motive power, including street railways. 3-4 Geo. V.
c. 37, s. 4.

CONSTITUTION OF THE BOARD.

Appointment. 5.—(1) The Lieutenant-Governor in Council may, from
time to time, appoint a commission to be called "the Ontario
Railway and Municipal Board."

Members. (2) The Board shall be composed of three members, one
of whom shall be appointed by the Lieutenant-Governor in
Council to be the chairman and another to be the vice-
chairman, and each of them shall continue so to be while he
is a member of the Board.

Vacancies. (3) Vacancies caused by death, resignation or otherwise
may be filled by the Lieutenant-Governor in Council, but a
vacancy shall not impair the power of the remaining members
to act.

Powers of (4) The Board shall have all the powers of a Court of
a Court Record and shall have an official seal which shall be judi-
of Record. cially noticed.

(5) The members of the Board shall hold office during ^{Tenure of} pleasure. _{office.}

(a) Provided, however, a member of the Board shall cease to hold office upon reaching the age of seventy-five years; and

(b) The Chairman of the Board, if at the time of his appointment a barrister of at least ten years standing at the bar, shall not be removed at any time by the Lieutenant-Governor in Council, except upon an address of the Assembly.

(6) Whenever

(a) any power or authority is given to or duty imposed ^{Powers, etc.,} upon the Railway Committee of the Executive _{of Railway} Council of Ontario by any Act or document; _{Committee transferred to Board.}

(b) by any Act of this Legislature the location of any ^{Location} line of railway or the route and course thereof, _{of line.} or the maps, plans, and specifications, or any part of the equipment, are subject to the approval of the Lieutenant-Governor in Council or of any of his Ministers;

such power or authority may be exercised and such duty shall be performed and such approval may be given by the Board.

(7) Whenever in any Act it is provided that any railway ^{Furnishing} company shall, during construction of any line of railway, _{information.} furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant-Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations, or the number of them, such information shall be furnished to the Board and its directions shall be complied with by the company. 3-4 Geo. V. c. 37, s. 5.

6.—(1) In case of the absence of the Chairman, or of his ^{Power of} inability to act, or of a vacancy in the office, the Vice-chair- _{Vice-Chairman.} man shall exercise the powers of the chairman for or instead of the Chairman, and in such case all regulations, orders and other documents signed by the Vice-chairman shall have the like force and effect as if signed by the Chairman.

(2) Whenever the Vice-chairman appears to have acted ^{Presumption} for and instead of the Chairman, it shall be conclusively _{of having} presumed that he so acted in the absence or disability of the _{duly acted.} Chairman within the meaning of this section. 3-4 Geo. V. c. 37, s. 6.

7. Two members shall form a quorum and, except as pro-Quorum. vided by section 8, not less than two members shall attend at
27 s.—II

Questions
of law.

the hearing of every case, and the Chairman, when present, shall preside, and his opinion upon any question of law shall prevail. 3-4 Geo. V. c. 37, s. 7.

Where
applications
unopposed.

8. In any case in which there is no opposing party, and no notice to be given to any interested party, any one member may act alone for the Board. 3-4 Geo. V. c. 37, s. 8.

Reference
to a
member.

9. The Board or the Chairman may authorize any one of the members to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such member shall have all the powers of two members sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report, and upon such report being made to the Board, it may be adopted as the order of the Board, or otherwise dealt with as to the Board seems proper. 3-4 Geo. V. c. 37, s. 9.

Appoint-
ments *pro*
hac vice.

10. Whenever any member is interested in any matter before the Board, the Lieutenant-Governor in Council may, upon the application of such member or otherwise, appoint some disinterested person to act as a member, *pro hac vice*, and the Lieutenant-Governor in Council may also appoint a member during sickness, absence or inability to act of any member. 3-4 Geo. V. c. 37, s. 10.

Prohibition
against
holding rail-
way stock,
etc.

11.—(1) No member or officer of the Board shall, directly or indirectly,

(a) hold, purchase, take or become interested in any stock, share, bond, debenture or other security, of any railway company, street railway company or public utility subject to this Act; or,—

Or having
interest in
appliances.

(b) have any interest in any device, appliance, machine, patented process or article, or any part thereof, which may be required or used as a part of the equipment of railways or of street railways, or of any rolling stock to be used thereon, or of any such public utility.

Duty to
dispose of
interest.

(2) If any such stock, share, bond or other security, device, appliance, machine, patented process or article, or any part thereof, or any interest therein, shall come to or vest in any member or officer of the Board by will or succession for his own benefit he shall, within three calendar months after the same shall so come to or vest in him, absolutely sell and dispose of the same or his interest therein.

Members of
Board not
to be officers
or directors
of certain
companies.

(3) No member or officer of the Board shall act as director or officer of any public utility company or of any company which has power to invest any portion of its funds in the securities of a railway, street railway, or public utility company. 3-4 Geo. V. c. 37, s. 11.

12. The members shall devote the whole of their time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this section. 3-4 Geo. V. c. 37, s. 12. Exclusive attendance to duties.

13. The Lieutenant-Governor in Council shall provide, within the City of Toronto, a suitable place in which the sittings of the Board may be held, and also suitable offices for the members, secretary, staff and other employees, and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same, and for the performance of the duties of the Board. 3-4 Geo. V. c. 37, s. 13. Offices at Toronto.

14.—(1) The Board shall sit at such times and places and conduct its proceedings in such manner as may seem to it most convenient for the speedy despatch of business. Sittings of Board.

(2) The sittings may be either private or open to the public, but any complaint made to the Board shall, on the application of any party to the complaint, be publicly heard and determined. 3-4 Geo. V. c. 37, s. 14. Private or public.

15.—(1) Where sittings of the Board, or of any member thereof, are appointed to be held in any city, town or place in which a court house is situate the member presiding at any such sittings shall have, in all respects, the same authority as a Judge of the Supreme Court in regard to the use of the court house and other buildings or apartments set apart in the county or district for the administration of justice. Use of court house.

(2) Where sittings are appointed to be held in any municipality in which there is a hall belonging to the corporation of the municipality but no court house the corporation of the municipality shall allow such sittings to be held in such hall. 3-4 Geo. V. c. 37, s. 15. Use of town hall.

16.—(1) There shall be a Secretary of the Board, who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. Secretary.

(2) It shall be the duty of the Secretary to Duties of Secretary.

(a) attend all sittings of the Board; Attend sittings.

(b) keep a record of all proceedings conducted before the Board or any member; Keep minutes.

(c) have the custody and care of all records and documents belonging or appertaining to the Board, or filed in his office; Custody of records.

(d) obey all rules and directions made or given by the Board touching his duties or his office; Obey directions.

Authentica-
tion of
regulations
and orders.

(e) see that every regulation and order made by the Board is drawn pursuant to the direction of the Board, properly authenticated, and filed in his office;

Record
books.

(f) keep in his office suitable books of record, in which he shall enter a true copy of every such regulation and order and every other document which the Board may require to be entered therein, and such entry shall constitute and be the original record of any such regulation or order. 3-4 Geo. V. c. 37, s. 16.

Certified
copies of
regulations
or orders.

17. Upon application of any person, and on payment of such fees as the Board may prescribe, the Secretary shall deliver to such person a certified copy of any such regulation or order. 3-4 Geo. V. c. 37, s. 17.

Acting
Secretary.

18. In the absence of the Secretary the Board may appoint from its staff a Secretary *pro tempore*, who shall act in the place of the Secretary, or a member of the Board may act as Secretary. 3-4 Geo. V. c. 37, s. 18.

Salaries.

19.--(1) The Chairman shall be paid an annual salary of \$6,000, and each of the other two members shall be paid an annual salary of \$4,000 and the Secretary shall be paid an annual salary to be fixed by the Lieutenant-Governor in Council not exceeding \$2,400.

How
payable.

(2) Such salaries shall be payable out of the Consolidated Revenue Fund and shall be paid *pro rata* for any period less than a year. 3-4 Geo. V. c. 37, s. 19.

Experts.

20.--(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, appoint one or more experts, or persons having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board.

Staff of
Board.

(2) There shall be attached to the Board such officers, clerks, stenographers and messengers as the Board, with the approval of the Lieutenant-Governor in Council, from time to time appoints, and the Board may, with the approval of the Lieutenant-Governor in Council, dismiss any of them.

Salaries.

(3) The officers, clerks, stenographers and messengers attached to the Board shall receive such salaries or remuneration as may be approved by the Lieutenant-Governor in Council upon the recommendation of the Board.

Remuneration
of appointee
to make
inquiry.

(4) Whenever the Board, by virtue of any power vested in it by this Act or any other Act, appoints or directs any person, other than a member of the staff of the Board, to perform any service required by this Act or such other Act, such person shall be paid such sum for services and expenses as

the Lieutenant-Governor in Council may, upon the recommendation of the Board, determine.

(5) The salaries or remuneration of all such officers, clerks, stenographers, messengers, and appointees, and all the expenses of the Board incidental to the carrying out of this Act or such other Act, including all actual and reasonable travelling expenses of the members, Secretary, and of such appointees or persons on the staff of the Board as may be required by the Board to travel, necessarily incurred in attending to the duties of their offices, shall be paid monthly out of moneys appropriated by this Legislature for that purpose. 3-4 Geo. V. c. 37, s. 20.

Salaries and expenses of staff, etc., how to be paid.

JURISDICTION AND GENERAL POWERS.

21.—(1) The Board shall have jurisdiction to enquire into, hear and determine any application by or on behalf of any person interested, complaining that any company, person or municipal corporation, constructing, maintaining or operating any railway, street railway, telegraph or telephone system, or any public utility, or having the control thereof, or charged with the performance of any duty or the exercise of any power in relation thereto—

Jurisdiction of Board upon application.

(a) has failed to do any act, matter or thing required to be done by this Act or by any other general or special Act, or by any regulation, order or direction made thereunder or by any agreement entered into by the company, person or municipal corporation, or by any stipulation or condition in a municipal by-law accepted or acted upon by the company, person or municipal corporation;

Neglect of duty under any Act, regulation, order or agreement.

(b) has done or is doing any act, matter or thing contrary to or in contravention of this Act, or any such other Act, or any such regulation, order or direction, or any such agreement, stipulation, or condition; or

Contravention of Act, etc.

(c) is charging tolls in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful, unfair or unjust;

Charging excessive tolls.

and requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to give or make.

Giving orders, directions or approval.

(2) The Board may order and require any company, person or municipal corporation to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter, or thing which such company, person, or municipal corporation is or may be required to do under this Act, or

General powers.

under any other general or special Act, and may forbid the doing or continuing of any act, matter or thing which is in contravention of any such Act or of any such regulation, order, direction, agreement or by-law.

Questions
of law
and fact.

(3) The Board shall, as to all matters within its jurisdiction, have authority to hear and determine all questions of law or of fact.

Powers of
amendment,
etc., etc.

(4) The Board shall, as respects the amendment of proceedings, the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction, or otherwise for carrying this Act or any other general or special Act into effect, have all such powers, rights and privileges as are vested in the Supreme Court.

Jurisdiction
where
receiver,
etc. acting
under
authority
of court.

(5) The fact that a manager or other official of any railway, street railway or public utility, or a liquidator or receiver has been appointed by, or is managing or operating a railway, street railway or public utility under the authority of any court, shall not be a bar to the exercise by the Board of any jurisdiction conferred by this Act or by any other general or special Act; but every such liquidator, receiver, manager or official shall be bound to manage and operate such railway, street railway or public utility in accordance with this Act and with the orders and directions of the Board, whether general or referring particularly to such railway, street railway or public utility; and he, and every person acting under him, shall obey all orders of the Board in respect of such railway, street railway or public utility, and be subject to have them enforced against him by the Board, notwithstanding the fact that such manager, official, liquidator or receiver is appointed by or acts under the authority of any court.

Parties.
Decision of
Board final.

(6) The decision of the Board, as to whether any company, person or municipal corporation is or is not a party interested within the meaning of this section, shall be binding and conclusive upon all companies, persons and municipal corporations.

Powers of
Hydro-
Electric
Power Com-
mission.
Rev. Stat. c. 39

(7) Nothing in this section shall confer upon the Board any jurisdiction as to matters which, under *The Power Commission Act* and the amendments thereto, are within the jurisdiction of The Hydro Electric Power Commission of Ontario. 3-4 Geo. V. c. 37, s. 21.

Board's
jurisdiction
exclusive.

22. The Board shall have exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. 3-4 Geo. V. c. 37, s. 22.

23.—(1) The Board may, of its own motion, and shall, ^{When Board may} upon the request of the Lieutenant-Governor in Council, inquire into, hear and determine any matter or thing which it may inquire into, hear and determine upon application or complaint, and with respect thereto shall have and may exercise the same powers as, upon any application or complaint, are vested in it.

(2) Any power or authority vested in the Board under this Act or any other Act may, though not so expressed, be ^{Power to act from time to time.} exercised from time to time, or at any time, as the occasion may require. 3-4 Geo. V. c. 37, s. 23.

24.—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, or of his own ^{Appoint-ment of counsel.} motion, appoint counsel to appear before the Board and conduct any enquiry or hearing or to represent the Board upon the argument of any appeal to a Divisional Court.

(2) The Board may direct that the costs of such counsel ^{Costs.} shall be paid by any party to the application, proceeding or matter, or by the Treasurer of Ontario. 3-4 Geo. V. c. 37, s. 24.

25. The Board may rehear any application before deciding or may review, rescind, change, alter or vary any decision ^{Power to rehear, review, etc.} or order made by it. 3-4 Geo. V. c. 37, s. 25.

26. If default is made by a company or person, or by a ^{Board's powers upon default in obeying order.} municipal corporation, in the doing of any act, matter or thing, which the Board has authority, under this or any other Act, general or special, to direct and was directed to be done, the Board may authorize such person as it may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the company, person or municipal corporation in default as money paid for and at the request of such company, person, or municipal corporation, and the certificate of the Board of the amount so expended shall be conclusive evidence thereof. 3-4 Geo. V. c. 37, s. 26.

27. The Board shall also have power to enforce its orders ^{Enforcing orders of Board.} and directions in like case and in the manner and by the means provided in section 260 of *The Ontario Railway Act*. ^{Rev Stat. c. 185.} 3-4 Geo. V. c. 37, s. 27.

PRACTICE AND PROCEDURE.

Notices. Evidence.

28. Any notice required or authorized to be given in ^{Notice, requisites of.} writing,—

- (a) by the Board, may be signed by the Chairman or Secretary;
- (b) by the inspecting engineer, or other officer or person appointed by the Board, may be signed by such inspecting engineer, officer or other person, as the case may be;
- (c) by any company or corporation, may be signed by the president or secretary, or by its duly authorized agent or solicitor; and
- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. 3-4 Geo. V. c. 37, s. 28.

Notices,
how
served.

29.—(1) Any notice required to be given to a company, a municipal or other corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the same, or a copy thereof, within the time, if any, limited therefor,—

Railway
company.

- (a) in the case of a railway company, to the president, vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company;

Municipality.

- (b) in the case of a municipal corporation, to the head of the municipality, or to the clerk;

Other
companies.

- (c) in the case of any other company or corporation, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office;

Co-partnership.

- (d) in the case of a firm or co-partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein; and,

Individuals.

- (e) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk in his employ.

Service by
publication.

(2) If, in any case within the jurisdiction of the Board, it is made to appear, to the satisfaction of the Board that service of any such notice cannot conveniently be made, in the manner provided in the next preceding subsection, the Board may order and allow such service to be made by the publication of such notice for any period not less than three weeks in the *Ontario Gazette*, and also, if required, in any other newspaper; and such publication in each case shall be

deemed to be equivalent to service in the manner provided in the said subsection.

(3) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section. 3-4 Geo. V. c. 37, s. 29. Service of other documents.

30. Every company and every municipal or other corporation shall, as soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed. 3-4 Geo. V. c. 37, s. 30. Duty of company on receipt of notice or order.

31. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the Secretary, be paid by the county interested the like fees as for similar services at the sittings of the High Court Division for the trial of actions, and such fees shall be charged as expenses of the administration of justice. 3-4 Geo. V. c. 37, s. 31. Duty of sheriffs, etc.

32. Every written or printed document purporting to have been issued or authorized by a company or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document. 3-4 Geo. V. c. 37, s. 32. Effect of documents issued by company.

33.—(1) Every document purporting to be signed by the Chairman and Secretary, or by either of them, or by an inspecting engineer, shall, without proof of the signature, be *prima facie* evidence that such document was duly signed, and shall be sufficient notice to the company and all parties interested, if served in the manner provided by section 29 for service of notice, that such document was duly signed and issued by the Board, or inspecting engineer, as the case may be. Evidence of documents.

(2) If such document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it shall be *prima facie* evidence of such regulation, order, direction, decision or report, and, when served in the manner provided by section 29, shall be sufficient notice of such regulation, order, direction, decision or report from the time of such service. 3-4 Geo. V. c. 37, s. 33. Evidence of regulations, etc., etc.

Certified
plan, etc.,
prima facie
evidence.

34.—(1) Any document purporting to be certified by the Secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, shall, without proof of signature of the secretary, be *prima facie* evidence of such original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from such certified copy, and also, if such certificate states the time when such original was so deposited, that the same was deposited at the time so stated.

Certified
copies of
documents
of Board.

(2) A copy of any regulation, order or other document in the custody of the Secretary, or of record with the Board, purporting to be certified by the Secretary to be a true copy and purporting to be sealed with the seal of the Board, shall be *prima facie* evidence of such regulation, order or document, without proof of the signature of the Secretary. 3-4 Geo. V. c. 37, s. 34.

Publication
of regula-
tions and
orders.

Judicial
notice.

35. Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in the *Ontario Gazette*, and while the same remains in force, shall have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. 3-4 Geo. V. c. 37, s. 35.

Notice of
application.

Board may
vary length
of time.

36. Unless otherwise provided ten days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient, but the Board may in any case direct longer or permit shorter notice of the application. 3-4 Geo. V. c. 37, s. 36.

Procedure
in urgent
cases when
no notice
given.

37.—(1) When the Board is authorized to hear an application, complaint, or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice.

When
rehearing
in such
cases may
be had.

(2) Any person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application, as may seem to it just. 3-4 Geo. V. c. 37, s. 37.

Orders of Court.

38.—(1) A certified copy of any order or decision made by the Board under this Act or any general or special Act may be filed in the office of the Clerk of Records and Writs, and shall thereupon become and be enforceable as a judgment or order of the Supreme Court to the same effect, but the order or decision may be nevertheless rescinded or varied by the Board.

Making
decisions or
orders.
Orders of
Court.

(2) It shall be optional with the Board to adopt the method provided by this section for enforcing its orders or decisions or to enforce them by its own action. 3-4 Geo. V. c. 37, s. 38.

Board may
select
method of
enforcing
order.

Terms of Orders.

39.—(1) The Board may direct in any order that the same, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition in such order specified, or upon the performance, to the satisfaction of the Board or person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of such order, shall have force for a limited time, or until the happening of any specified event.

Contingent
orders.

Subject to
terms.

Limited as
to time.

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application. 3-4 Geo. V. c. 37, s. 39.

Interim
orders.

40. Upon any application to the Board the Board may make an order granting the whole, or part only, of such application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board may seem just and proper as fully in all respects as if such application had been for such partial, other, or further relief. 3-4 Geo. V. c. 37, s. 40.

May grant
partial or
other relief
than that
applied for.

41. The Board may, if the special circumstances of any case, in its opinion, so require, make an *interim ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered on application, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined. 3-4 Geo. V. c. 37, s. 41.

Interim
ex parte
orders.

42. When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time the Board may, if the circumstances of the case, in its opinion, so require,

Extension
of time
specified in
order.

upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified. 3-4 Geo. V. c. 37, s. 42.

General Rules.

Power to
make rules.

43. The Board may make general rules regulating its practice and procedure. 3-4 Geo. V. c. 37, s. 43.

Other Provisions.

Presump-
tion of
jurisdiction
to make
order.

44. An order of the Board need not show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make such order. 3-4 Geo. V. c. 37, s. 44.

Effect of
finding of
fact in
another court.

45.—(1) In determining any question of fact the Board shall not be concluded by the finding or judgment of any other court in any action, prosecution or proceeding involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only.

Jurisdiction
not affected.

(2) The pendency of any action, prosecution or proceeding in any other court involving questions of fact shall not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Effect of
finding of
Board on
questions of
fact.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive. 3-4 Geo. V. c. 37, s. 45.

Stating
case for
opinion of
Appellate
Division.

46.—(1) The Board may, at the request of the Lieutenant-Governor in Council, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of a Divisional Court upon any question which, in the opinion of the Board, is a question of law.

Action
thereon.

(2) The Divisional Court shall hear and determine such special case and remit the same to the Board with the opinion of the court thereon. 3-4 Geo. V. c. 37, s. 46.

Power of
Lieut.-Gov-
ernor in
Council to
vary or
rescind
orders or
regulations
of the
Board.

47.—(1) The Lieutenant-Governor in Council may, at any time, upon petition of any party, person or company interested, all parties interested having been first heard, vary or rescind any order, decision, rule or regulation of the Board, whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application; and any order which the Lieutenant-Governor in Council may make with respect thereto shall be binding upon the Board and upon all parties.

(2) This section shall apply to orders or decisions here-^{Application of section.}
tofore or hereafter made or given. 3-4 Geo. V. c. 37, s. 47.

APPEALS.

48.—(1) An appeal shall lie from the Board to a ^{Appeal on questions of jurisdiction.}
Divisional Court upon a question of jurisdiction or upon any question of law, but such appeal shall not lie unless leave to appeal is obtained from the court within one month after the making of the order or decision sought to be appealed from or within such further time as the court, under the special circumstances of the case, shall allow after notice to the opposite party stating the grounds of appeal.

(2) Upon such leave being obtained the Registrar shall ^{Security for costs.}
set the appeal down for hearing at the next sittings; and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties ^{Notice of appeal.}
were represented before the Board, and to the Secretary, notice in writing that the case has been so set down; and the appeal shall be heard by such court as speedily as practicable.

(3) On the hearing of any appeal the court may draw all ^{Opinion of court.}
such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction or law, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

(4) The Board shall be entitled to be heard, by counsel ^{Board may be heard by counsel.}
or otherwise, upon the argument of any such appeal.

(5) The Supreme Court shall have power to fix the costs ^{Rules of court as to cost, etc.}
and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a Judge of the Supreme Court to a Divisional Court shall be applicable to appeals under this Act.

(6) When the matter in controversy exceeds the sum or ^{Appeals to Privy Council in certain cases.}
value of \$4,000 or relates to the duration of a privilege to operate a railway along a highway, or to the construction of an agreement between a railway company and a municipal corporation, or to any demand affecting the rights of the public or to any demand of a general or public nature affecting future rights, an appeal shall lie from the Divisional Court of the Appellate Division of the Supreme Court to His Majesty in His Privy Council, but no appeal shall lie to His Majesty in His Privy Council in any other case.

(7) Neither the Board nor any member of the Board shall ^{Members of Board not liable for costs.}
in any case be liable to any costs by reason or in respect of any appeal or application under this section.

(8) Save as provided in this section and in section 47,

Decisions
of Board
to be final.

(a) Every decision or order of the Board shall be final;
and,

Not to be
questioned
by pro-
hibition, etc.

(b) No order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. 3-4 Geo. V. c. 37, s. 48.

Reference by
Lieutenant-
Governor in
Council
for report.

49. The Lieutenant-Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of a railway, street railway or public utility, subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the Order in Council. 3-4 Geo. V. c. 37, s. 49.

Costs.

50.—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

Taxation.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

Scale.

(3) The Board may prescribe a scale under which such costs shall be taxed. 3-4 Geo. V. c. 37, s. 50.

Duty to
execute works
ordered by
Board.

51.—(1) When the Board, in the exercise of any power vested in it, by any order directs any structure, appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what company, municipal corporation or person interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained.

And to pay
expenses
of them.

(2) The Board may order by whom, in what proportion and when, the cost and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals, or repairs, or of the supervision, if any, or of the continued operation, use or maintenance of the same, or of otherwise complying with such order shall be paid. 3-4 Geo. V. c. 37, s. 51.

Board may
order
inquiries.

52.—(1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint

INQUIRIES.

or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses. 3-4 Geo. V. c. 37, s. 52.

53. The Board, inspecting engineer, or person appointed under this Act to make any inquiry or report may— Powers respecting inquiries.

(a) enter upon and inspect any place, building, or Entry. works, being the property or under the control of any company, the entry or inspection of which appears to it or him requisite;

(b) inspect any works, structure, rolling stock or property of the company; Inspection.

(c) require the attendance of all such persons as it or he Attendance of witnesses thinks fit to summon, and examine and require answers or returns to such inquiries as it or he Returns. thinks fit to make;

(d) require the production of all books, papers, plans, Production of documents, etc. specifications, drawings and documents, relating to the matter before it or him;

(e) administer oaths, Oaths.

and shall have the like power to summon witnesses and enforce their attendance, and compel them to give evidence and to produce books, papers or things which they are required to produce, as is vested in any court in civil cases. 3-4 Geo. V. c. 37, s. 53. Summoning witnesses and enforcing attendance.

54. Every person summoned to attend before the Board or before any inspecting engineer, or person appointed to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. 3-4 Geo. V. c. 37, s. 54. Witness fees.

ADDITIONAL POWERS OF BOARD.

55. The Board may require any company, person or municipal corporation, subject to its jurisdiction, to adopt such means and appliances and to take and use such precautions as the Board may deem necessary or expedient for the safety of life and property. 3-4 Geo. V. c. 37, s. 55. Telegraph and telephone wires, etc.

ENQUIRIES INTO FACTS FOR GOVERNMENT, ETC.

56. The Board shall, when required so to do by the Lieutenant-Governor in Council, the Assembly or any Committee thereof, make, or cause to be made under its supervision, an Board to enquire and report on certain

matters at
request of
Govern-
ment or
Legislature.

enquiry into any facts which the Lieutenant-Governor in Council, the Assembly or any such Committee may desire to ascertain before passing upon the propriety of any proposed change in the general railway law, or upon any proposed Bill relating to a municipal corporation or to a railway or street railway company, or to any corporation or person operating or proposing to operate a public utility, and upon the conclusion of such enquiry the Board shall report its opinion thereon. 3-4 Geo. V. c. 37, s. 56.

ANNUAL REPORT OF BOARD.

Annual
report.

57.—(1) The Board shall make an annual report, on or before the 31st day of January in each year, to the Lieutenant-Governor, which shall contain

Contents.

- (a) a record of its meetings and an abstract of its proceedings during the preceding calendar year;
- (b) a statement of the result of any examination or investigation conducted by it;
- (c) such statements, facts and explanations as will disclose the actual workings of the system of railway transportation in its bearing upon the business and prosperity of Ontario, and such suggestions as to the general railway policy of the Province, of the amendments of its laws, or the condition, affairs or conduct of any railway or street railway as may seem to it advisable;
- (d) such tables and abstracts of all the reports of all the railway and street railway companies as it may deem expedient;
- (e) a statement in detail of its disbursements;
- (f) such other matters as appear to the Board to be of public interest in connection with the persons, companies and railways, subject to this Act; and,
- (g) such matters as the Lieutenant-Governor in Council directs.

Laying
report before
Assembly.

(2) The Lieutenant-Governor shall lay the report before the Assembly forthwith if then in session, or if not then in session within fifteen days after the commencement of the next session. 3-4 Geo. V. c. 37, s. 57.

Superintend-
ing accounts
of railways
and public
utilities
operated by
municipalities.

58.—(1) The Board shall superintend the system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of all railways, street railways and public utilities which are operated by or under the control of a municipal corporation or a commission appointed by a municipal corporation, and may require from any such municipal

corporation or commission such returns and statements as to the Board may seem proper, and may extract from such returns and statements such information as, in the opinion of the Board, may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

(2) The Board may from time to time enquire and report as to whether such railway, street railway, or public utility is operated in such a way that the rates charged in respect thereof are sufficient to pay the debenture debt and interest created in respect thereof, and the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

(3) This section shall not apply to a municipal corporation or commission as respects a public utility for the development or distribution of electrical power or energy. 3-4 Geo. V. c. 37, s. 58.

SECRECY OF PROCEEDINGS.

59. If any officer or servant of the Board, or any person having access to or knowledge of any return made to the Board, or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes known any information, having obtained the same or knowing the same to have been derived from such return or evidence, he shall incur a penalty not exceeding \$500 for such offence and shall also be liable to imprisonment for any term not exceeding six months. 3-4 Geo. V. c. 37, s. 59.

ARBITRATION BY THE BOARD IN CASES OF LABOUR DISPUTES.

60.—(1) A dispute between a railway, street railway or public utility company and its employees may be submitted to the Board for its determination and settlement.

(2) The submission shall be in writing and shall contain a statement of the matters in dispute, and also an agreement to abide by the determination of the Board and to continue in business or at work without a lockout or strike during the investigation.

(3) Upon such submission the Board shall investigate and determine the matters in dispute and shall render its decision within ten days after the completion of the investigation.

(4) The proceedings shall, as nearly as may be, be the same as in the case of any other enquiry which the Board is authorized to make, but the Board may regulate the proceedings and the manner of conducting them as to the Board may seem meet. 3-4 Geo. V. c. 37, s. 60.

MEDIATION IN CASE OF STRIKE OR LOCKOUT.

To mediate
in case of
strikes.

61.—(1) Whenever a strike or lockout of the employees of any railway, street railway, or public utility company occurs, or is threatened, the Board shall proceed as soon as practicable to the locality thereof and endeavour by mediation to effect an amicable settlement of the controversy.

Enquiry into
cause of
dispute and
suggesting
terms of
settlement.

(2) Wherever there exists any such strike or lockout by reason of which, in the opinion of the Board, the general public is likely to suffer injury or inconvenience with respect to food, fuel or light, power, the means of communication or transportation, or in any other respect, and the parties to such strike or lockout will not consent to submit the matters in controversy to the Board, the Board, after having first endeavoured to effect a settlement by conciliatory means and having failed, may proceed of its own motion to make an investigation of all facts bearing upon such strike or lock-out, and shall make public its findings with such recommendations to the parties as, in its judgment, will contribute to a fair and equitable settlement of their differences, and in the prosecution of such enquiry the Board shall have all the powers conferred upon it by section 53. 3-4 Geo. V. c. 37, s. 61.

FEES TO BE CHARGED AND COLLECTED BY THE BOARD.

Fees for
copies,
certificates,
etc.

62.—(1) The Board may charge and collect such fees, as to it may seem proper for all copies of documents, maps or plans, and all certificates as to the same.

Payment
over to
Province.

(2) All fees charged and collected by the Board shall be paid over quarterly, accompanied by a detailed statement thereof, to the Treasurer of Ontario. 3-4 Geo. V. c. 37, s. 62.

Fees on
orders of
Board to be
paid in
stamps.

63. There shall be paid in law stamps upon every order made by the Board such sum as it may direct, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such law stamps shall be provided in the first instance by the applicant for such order, and such sum shall be a debt due by the applicant to His Majesty, and a summary order may be made for payment thereof by the Board, and the order may be made an order of the Supreme Court. 3-4 Geo. V. c. 37, s. 63.

CHAPTER 187.

An Act respecting the Public Construction and
Opération of Electric Railways.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as *The Hydro Electric Rail- Short title.*
way Act. 3-4 Geo. V. c. 38, s. 1.

2. In this Act,

Interpreta-
tion.

“Commission” shall mean The Hydro Electric Power “Com-
mission of Ontario. mission.”

“Corporation” shall mean a municipal corporation, “Corpora-
other than the municipal corporation of a county. tion.”
3-4 Geo. V. c. 38, s. 2.

3. Whenever required by the Lieutenant Governor in Commission
Council so to do, the Commission may enquire into, examine, to enquire
investigate and report upon and report.

(a) the cost of constructing and operating an electric
railway in any locality in which electrical power
or energy may be supplied by the Commission
under *The Power Commission Act*;

Rev. Stat. c. 39.

(b) the municipalities, the inhabitants of which will
be served by such railway;

(c) the population of each of such municipalities as
shown by the last enumeration thereof by the as-
sessors;

(d) an estimate of the probable revenue from the rail-
way;

(e) the practicability of the undertaking and its
economic value to the locality to be served by it.
3-4 Geo. V. c. 38, s. 3.

4.—(1) A corporation or two or more corporations may,
if authorized by the Lieutenant Governor in Council so to do, Agreement
enter into an agreement with the Commission for the con- with cor-
struction, equipment and operation of an electric railway for con-
be operated by electrical power or energy supplied by the struction and
Commission. operation.

Matters
which may
be provided
for in
agreement.

(2) The agreement may provide for

- (a) the location of the line of the railway;
- (b) the character of the equipment and service to be furnished and the maximum tolls or fares to be chargeable thereon;
- (c) the proportion in which the cost of construction, equipment, maintenance and operation of the railway shall be borne by each of the corporations interested;
- (d) the issuing of debentures of the corporation, or of each of the corporations, for raising the amount of such cost;
- (e) the proportion of the revenue from such railway to be paid annually by the Commission to each corporation after deducting the charges herein-after mentioned;
- (f) the construction of the railway upon any right of way acquired by the Commission for the transmission of electrical power or energy under *The Power Commission Act*, and the amount chargeable to the railway by way of rental or otherwise for the use of such right of way.

Rev. Stat. c. 3^d.

Agreement
for con-
struction
and opera-
tion by
corporation.

(3) Instead of providing for the construction and operation of the railway by the Commission, the agreement may provide for its construction by the Commission and for its operation by the corporation or corporations, or for its construction and operation by the corporation or corporations, and in either case for the supply by the Commission of the electrical power requisite for the operation of the railway on such terms and conditions as may be agreed on between the corporation or corporations and the Commission.

Construc-
tion on
right of
way of
Commission.

(4) Where the railway is to be constructed and operated by the corporation or corporations, the Commission may agree with them to permit the railway to be constructed upon the right of way or other lands of the Commission on such terms and conditions as may be agreed on.

Approval of
Lieutenant
Governor
in Council.

(5) The agreement shall not come into effect until it has been sanctioned by the Lieutenant Governor in Council and has been approved by by-law passed with the assent of the municipal electors of each municipality. 3-4 Geo. V. c. 38, s. 4.

5.—(1) The council of every corporation entering into an agreement with the Commission under this Act shall annually raise and pay over to the Commission such sums as may be required by it in the construction, equipment, maintenance and operation of the railway, including the costs of the supply of electrical power or energy to the extent and in the proportions fixed by the agreement, and, for that purpose, may issue debentures of the corporation payable in not more than forty years from the date of the issue thereof.

Annual payments by municipalities to defray cost.

(2) It shall not be necessary to obtain the assent of the electors to the passing of any by-law for incurring a debt under this section. 3-4 Geo. V. c. 38, s. 5.

Assent of electors not necessary.

6. Where the agreement provides for the construction and operation, or for the operation of the railway by a corporation or by two or more corporations, it shall also provide for the management of the railway and its operation by a public utilities commission, to be approved by the Lieutenant Governor in Council, and it shall provide as to the mode of appointing the members of such commission and for the proportions in which each corporation shall contribute to the cost of its construction, maintenance and operation, and for the proportion in which each of them shall share in the income, revenue and profits derived from the operation of the railway, and such corporation or corporations or commission shall have the right to construct and operate the railway notwithstanding that it does not lie wholly within one or more of the municipalities, the corporations of which may have entered into the agreement. 3-4 Geo. V. c. 38, s. 6.

Construction and operation by a public utilities commission.

7. A public utilities commission appointed under the provisions of the next preceding section shall have all the powers and perform all the duties of a public utilities commission appointed under *The Public Utilities Act*. 3-4 Geo. V. c. 38, s. 7.

Powers and duties of public utilities commission. Rev. Stat. c. 204.

8. Subject to the provisions of section 5, where an agreement has been entered into under section 4, the Commission may construct, complete, equip, maintain, and operate the railway therein provided for, and for that purpose shall have and may exercise the powers of a company incorporated by special Act for the construction of such railway under the provisions of *The Ontario Railway Act*, so far as the same are applicable. 3-4 Geo. V. c. 38, s. 8.

Powers of Commission as to construction and operation.

Rev. Stat. c. 185.

9. Where land is required for any of the purposes for which land may be acquired or expropriated under *The Ontario Railway Act* the Commission, in respect thereof, shall have the powers and shall proceed in the manner provided by *The Ontario Public Works Act*, where the Minister of Public Works takes land or property for the use of Ontario, and the provisions of the said Act shall, *mutatis mutandis*, apply. 3-4 Geo. V. c. 38, s. 9.

Taking lands.

Rev. Stat. c. 185.

Rev. Stat. c. 33

Application
of revenue
by Com-
mission.

10. The Commission shall apply the revenue derived from the operation of the railway to the payment of working expenses of the railway, and after payment of the same shall annually pay over the balance, if any, to the corporations, parties to the agreement in the proportions fixed thereby. 3-4 Geo. V. c. 38, s. 10.

Application
of profits by
corporation.

11. All sums received by the corporation or corporations shall be applied in the first place in the payment of the principal and interest of any debt incurred under the authority of this Act in the manner prescribed by the Commission. 3-4 Geo. V. c. 38, s. 11.

Certain
sections of
Railway
Act not to
apply.

12. Sections 68 to 97 of *The Ontario Railway Act* shall not apply to the Commission or to any railway constructed or operated by it. 3-4 Geo. V. c. 38, s. 12.

Application
of ss. 8-12.

13. Sections 8 to 12 shall apply only where the agreement provides for the construction of the railway by the Commission. 3-4 Geo. V. c. 38, s. 13.

Actions
against
Commission.

14. No action or prosecution shall be brought against the Commission or any member thereof or any of its officers under *The Ontario Railway Act* without the consent of the Attorney General of Ontario. 3-4 Geo. V. c. 38, s. 14.

No liability
for errors
in esti-
mates.

15. The Province shall not, nor shall the Commission, nor any member thereof, incur any liability by reason of any error or omission in any estimates, plans or specifications prepared or furnished by the Commission. 3-4 Geo. V. c. 38, s. 15.

Works
vested in
Commission.

16. Every railway and the works, property and effects held and used in connection therewith, constructed, acquired, operated and maintained by the Commission, under this Act, shall be vested in the Commission in trust for the corporations parties to the agreement for the construction and operation of the railway. 3-4 Geo. V. c. 38, s. 15.

CHAPTER 188.

An Act respecting Telephone Systems.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Telephone Act*. Short title.
2 Geo. V. c. 38, s. 1.

2. In this Act,

Interpreta-
tion.

- (a) "Board" shall mean Ontario Railway and Municipal Board;
- (b) "Company" shall include a Company, Municipal Corporation, Association, partnership, individual or aggregation of individuals owning, controlling or operating or who may propose to own, control or operate a telephone system or line within Ontario;
- (c) "Initiating municipality" shall mean a municipal corporation which has established a telephone system under any former Act or which may establish a telephone system under this Act; "Initiating municipality."
- (d) "Maintenance" shall include not only the cost of repair and maintenance, but also the cost of switchboard operation and the cost of labour and superintendence and management of the system, including the extensions; "Maintenance."
- (e) "Special Act" shall mean and include any Act of this Legislature authorizing the construction of a telephone system or line, and with which this Act is incorporated, and letters patent incorporating a telephone company, or supplementary letters patent relating to such a company issued under the authority of any Act of this Legislature. 2 Geo. V. c. 38, s. 2 (a-e). "Special Act."
- (f) "Subscriber" shall mean and include every person who signs a petition to the council of a municipality praying for the establishment of a local telephone system, which is afterwards established pursuant to such petition, or who applies to connect his premises with a telephone system established under this or any former Act. "Subscriber."

and every person whose premises are so connected. 2 Geo. V. c. 38, s. 2 (f); 3-4 Geo. V. c. 40, s. 1.

"System."

(g) "System" shall mean a telephone system established under this or any former Act;

"Cost of establishing, etc., system."

(h) "The cost of establishing and maintaining any system or extension thereof," shall mean not only the cost of constructing, erecting and installing the original system, but also the cost of such improvement or strengthening of it, or any extension thereof, then in existence, as may be necessary or expedient by additional switchboard equipment, poles, cables, wires, cross-arms, insulators and other appliances, and such work or labour as may be deemed necessary or expedient by the Board or the initiating municipality to enable it to give the subscribers efficient telephone service;

"Tolls, Toll."

(i) "Tolls" and "Toll" shall include any toll, rate, rental, or charge for the transmission of telephone messages or for the use of telephone instruments, or circuits, or for the supply of telephone service. 2 Geo. V. c. 38, s. 2 (g-i).

PART I.

GENERAL POWERS OF MUNICIPAL CORPORATIONS.

Power to carry on telephone business.

3.—(1) The corporation of every municipality may carry on the telephone business, and for the purposes of such business may construct, maintain and operate in, over, under, upon or across the highways, lanes, parks, squares and other public ways, passages and places in the municipality, or in, over, under, upon or across the land of any person therein an underground or overhead or partly underground and partly overhead telephone system, and do all things necessary or convenient for that purpose.

Power to acquire or expropriate telephone systems.

(2) The corporation may also, for the purpose of establishing and carrying on such business, acquire by purchase or lease or may expropriate any telephone system in the municipality established under any former Act, or under Part II., and may improve and extend such system and maintain and operate it and any extension of it, and may for the purposes mentioned in this subsection exercise the like powers as are conferred by subsection 1. 2 Geo. V. c. 38, s. 3.

General powers as to carrying on business.

4. The council of the corporation may pass by-laws and make rules and regulations for carrying on the business, including the fixing of the terms and conditions upon which telephone services will be provided for persons desiring the

same, the amount to be paid for such services, and for any work or appliances that may be requisite for making connections with the buildings of such persons and the times when and the places where the charges therefor shall be payable. 2 Geo. V. c. 38, s. 4.

5. Such charges may be collected in like manner as taxes are collected and in default of payment the corporation may enter into or upon the building or premises in which any works or appliances for providing the service have been placed for the purpose of removing and may remove the same, doing no unnecessary damage to the buildings or premises. 2 Geo. V. c. 38, s. 5.

Collection of charges.
Removal of appliances.

6. Where any of the powers of expropriation conferred by this Part are exercised by a corporation the provisions of *The Municipal Act* as to the expropriation of land under that Act and as to all matters consequent upon the passing of an expropriating by-law shall apply. 2 Geo. V. c. 38, s. 6.

How powers of expropriation to be exercised.
Rev. Stat. c. 192.

7. No action shall be brought against the corporation or any of its officers, agents or servants for anything done or omitted in the carrying on of such business or in the exercise of the powers under this Act after the lapse of six months after the time when the cause of action arose. 2 Geo. V. c. 38, s. 7.

Limitation of action against corporation.

8.—(1) The council of every municipality may, in the case of a county, village or township, with the approval of the Board, and in the case of any other municipality, with the assent of the municipal electors, pass by-laws for granting to a telephone company, upon such terms and conditions as may be deemed expedient the right to use any of the highways, squares, or lanes in the municipality for placing in, upon, over or under the same poles, cables, ducts and wires for the purpose of its business. 2 Geo. V. c. 38, s. 8 (1); 3-4 Geo. V. c. 40, s. 1.

Granting a company right to use highways.

(2) In the case of a city, town or village the right may be an exclusive right limited to a period not exceeding five years at one time.

Rights in urban municipalities.

(3) A by-law passed under subsection 2 shall not prevent a council from granting to any person permission to use any of the highways, squares or lanes for the purpose of a private telephone line for the use of such person, his servants, clerks, or agents, or persons communicating with them. 2 Geo. V. c. 38, s. 8 (2-3).

Use of street for private telephone line.

(4) The council of every city may, without the consent of the electors, pass by-laws granting from time to time to any telephone company upon such terms and conditions as may be thought expedient the exclusive right within the

Grant of exclusive right to use streets.

municipality for a period not exceeding one year at any one time to use the streets and lanes in the municipality for the purpose of placing in, upon over or under the same, poles, cables, ducts and wires for the purpose of carrying on a telephone business and may on behalf of the municipal corporation enter into agreements with any such company for a period not exceeding one year not to give to any other company or person for such period any license or permission to use such streets or lanes for any such purpose; but no such by-law shall be passed nor shall any such agreement be entered into without the assent of two-thirds of the members of the council of the municipality being present and voting therefor and further no by-law providing for the renewal of such agreement for a further period of one year shall be passed without the assent of two-thirds of the members of the council of the municipality, in the year succeeding that in which the original by-law or by-law renewing the original agreement was passed, being present and voting therefor.

Terms of user.

(5) Subject to the provisions of the preceding subsections of this section whenever the council of a municipality and a company are unable to agree as to the terms and conditions upon which the right to use the highways, squares, or lanes in the municipality shall be granted, the council and the company may, by mutual consent, refer the matters in dispute to the Board, in which event the Board, after hearing the evidence of all persons interested, may prescribe such terms and conditions, and thereupon such terms and conditions shall be binding upon the corporation of the municipality and the company. 3-4 Geo. V. c. 40, s. 2.

PART II.

LOCAL MUNICIPAL TELEPHONE SYSTEMS.

Petition
for system.

9. A petition may be presented to the council of any local municipality praying for the establishment of a local telephone system by not less than 10 resident assessed land-owners. 2 Geo. V. c. 38, s. 9.

Particulars
to be stated
in petition.

10. The petitioners in their original or in any supplementary petition shall set forth such particulars as the council may require, including a statement showing the location of the proposed system and the manner in which it is proposed that it shall be constructed and maintained, and after having been affixed thereto no name shall be removed from the petition unless by consent of the Board. 2 Geo. V. c. 38, s. 10; 3-4 Geo. V. c. 40, s. 3.

By-law for
establishing
system.

11. The council may by by-law provide, at the expense of the subscribers and subject to such conditions as may be set

forth in the by-law, for the establishment and maintenance of the system and for the extension thereof from time to time upon the application of such persons as may desire to become subscribers. 2 Geo. V. c. 38, s. 11.

12. Every system established or extended under this Part or under any former Act and all works and property acquired, erected or used in connection therewith shall be vested in the initiating municipality in trust for the benefit of the subscribers, and the initiating municipality shall be responsible for all the obligations of the system in connection with its establishment, extension and maintenance. 2 Geo. V. c. 38, s. 12.

13. The council of the initiating municipality may, with the consent of the council of any adjoining municipality, or on the petition of ten resident assessed landowners of such adjoining municipality and with the approval of the Board, may from time to time extend the system into such adjoining municipality. 2 Geo. V. c. 38, s. 13; 3-4 Geo. V. c. 40, s. 4.

14.—(1) The cost of establishing and maintaining any system or any extension thereof under this Part or under any former Act shall be defrayed by the subscribers thereto in such proportion as they may agree upon among themselves, or, in default of agreement, or to the extent of any default in payment of the amount agreed upon, shall be defrayed by special rate to be levied upon the subscribers, or such of them as may be in default, and any such rate may be collected by action as an ordinary debt against the persons liable therefor or may be added to the collector's roll as taxes due from them, and may be collected in the same manner as other taxes. 2 Geo. V. c. 38, s. 14.

(2) The initiating municipality shall pay to its clerk, treasurer and collector, and to the clerk, treasurer and collector of the other municipalities into which its system extends, a reasonable remuneration for services performed by them or any of them under this Act.

(3) Such remuneration shall be fixed by agreement between the official performing the services and the council of the municipality or the commissioners, as the case may be, and, failing agreement, by the Board, on an application to it for that purpose. 3-4 Geo. V. c. 40, s. 5.

15. All works done at any time under this Part shall be deemed to be works done by the initiating municipality, and in carrying out the same, and in the construction, management, maintenance, control and extension of any system established under this Part or under any former Act the initiating municipality shall have and may exercise all or

any of the powers conferred upon municipal corporations by Part I. 2 Geo. V. c. 38, s. 15.

Connection
with other
systems
individual or
municipal.

16. The initiating municipality may enter into agreements for the connection of the system with any other telephone system owned or controlled by any individual or any company or by a municipal corporation, or may, with the consent of the subscribers, acquire by purchase or lease or may expropriate any existing telephone system operated in the municipality or any portion of the plant and appliances thereof, and, in case of expropriation, making such compensation therefor as may be agreed upon or in case of failure to agree as may be determined by arbitration under *The Municipal Act*. 2 Geo. V. c. 38, s. 16; 3-4 Geo. V. c. 40, s. 6.

Rev. Stat.
c. 192.

Issuing de-
bentures for
cost of work

17.—(1) Where the subscribers or a majority of them in the petition for the establishment or extension of the system pray that the payment of the cost of the work may be extended over a period not exceeding ten years, and that debentures of the initiating municipality may be issued to pay the cost of the work, the council of the initiating municipality, in the by-law providing for such establishment or extension or in a subsequent by-law passed as provided by subsection 8, may provide for the issue of debentures payable within ten years from the date of the issue thereof, and that the proceeds of such debentures shall be applied in payment of the cost of establishing or extending the system, and for levying a special rate upon the property of the subscribers sufficient to discharge any debt so incurred in equal annual instalments of principal and interest.

Serving
persons not
original
subscribers.

(2) The council of the initiating municipality or the subscribers in general meeting assembled, as provided by section 21, may by by-law prescribe the terms on which persons who were not original subscribers may become subscribers and connect their premises with the system.

Issue of
debentures
for cost of
extensions.

(3) The council may also by by-law authorize the issue of debentures, whether original or additional, to provide for the cost of any extension of the system, such debentures to be payable by annual instalments within ten years from the date of issue, and shall by any such by-law make provision for levying on the respective properties of subscribers with which connection is to be made an annual sum sufficient to discharge the debentures and the interest thereon as the same fall due.

Assent of
electors not
required.

(4) The debentures shall be issued on the credit of the initiating municipality and it shall not be necessary that the by-law be submitted for the assent of the electors.

Certain
provisions
retroactive.

(5) Subsections 2, 3 and 4 shall be deemed to be declaratory of the law on and from the 14th day of April, 1908.

(6) Where the system extends into another municipality the clerk of the initiating municipality shall transmit a certified copy of the by-law to the clerk of any municipality in which the premises of a subscriber are situate, and the amount payable by each subscriber in each year shall be added to the taxes payable by him in that year upon the collector's roll, and shall be collected in the same manner as other taxes, and when collected shall be paid over to the Treasurer of the initiating municipality.

When system extends into another municipality.

(7) If the amount collected from the subscribers is insufficient to meet any annual instalment of principal and interest, and the cost of maintenance, the deficiency shall be made up out of the general funds of the initiating municipality and shall constitute a debt due from the subscribers to the initiating municipality and be collected in the same manner as any other liability incurred on behalf of the subscribers under this Act.

Deficiency in amount required to meet annual instalments of debt, how made up.

(8) The initiating municipality may agree with any bank, person or body corporate for temporary advances and loans for meeting the cost of the work until the completion thereof, and may then pass the necessary by-law authorizing the issue of debentures, out of the proceeds of which the amount of the temporary loans and advances shall be paid as at first charge, but the by-law for the issue of debentures shall be passed not later than two years after the initiating municipality has enacted the by-law for the establishment or extension of the system as the case may be, and the debentures shall be issued within twelve months after the passing of the by-law. 2 Geo. V. c. 38, s. 17 (1-8).

Agreement with bank for advances.

(9) The initiating municipality before proceeding to establish a system or construct any extension thereof which may require the issue of additional debentures shall furnish to the Board a certified copy of the by-law providing for the establishment of such system or for the construction of such extension, together with such plans and specifications, particulars of the cost of the works, the amounts to be levied against the subscribers for the repayment of principal and interest, or the instalments thereof, and other information as the Board may require, and no debt shall be incurred for the construction of the system or any extension thereof or the purchase of material to be used in such construction until the Board shall have approved such by-law, plans and specifications. 2 Geo. V. c. 38, s. 17 (9); 3-4 Geo. V. c. 40, s. 7.

Plans and specifications.

(10) If in the establishment of a telephone system or any extension thereof it is proposed to erect poles, cables, ducts or wires upon or along a highway, upon or along which are located the poles, cables, ducts or wires of a telephone company, which is within the Legislative jurisdiction of Ontario the initiating municipality before proceeding to erect such

Offer to purchase system of company.

poles, cables, ducts or wires shall fix a price to offer and shall offer to purchase from the company at such price its system or such part thereof as it is proposed to duplicate, and if the company does not accept the price so offered within a period of one month from the date of the offer the price to be offered shall be fixed by the Board.

Right of
municipality
on refusal of
company to
accept price
fixed.

(11) If the company does not within one month from the decision of the Board accept the offer of the initiating municipality to purchase at the price fixed by the Board the initiating municipality may proceed to erect such poles, cables, ducts or wires upon or along such highways, or may appropriate such part of the system of the company as may be located within the limits of the initiating municipality or within the limits of any adjoining municipality into which the initiating municipality has authority to extend its system or lines making such compensation therefor as may be agreed upon or in case of failure to agree as may be determined by arbitration under *The Municipal Act*.

Rev. Stat.
c. 192.

Application
of sections 9-11.

(12) The three next preceding subsections shall apply to a municipal corporation proposing to establish a telephone system under the provisions of section 3. 3-4 Geo. V. c. 40, s. 8.

Equalizing
charges -
against
subscribers.

18. If the share of the cost to each subscriber of the establishment of any extension is less than the share of the cost to each subscriber of the establishment of the original system, the initiating municipality may charge each subscriber for such extension the same annual amount, and for the like term of years, as was charged to each subscriber for the establishment of the original system, and the difference between such last mentioned amount and the amount of the cost of the establishment of the extension shall be applied by the initiating municipality towards the cost of the maintenance of the original system, and any extension thereof, and each subscriber for such extension shall pay such annual amount to the initiating municipality during such term of years. 2 Geo. V. c. 38, s. 18.

Application of
difference
between
charges.

System
heretofore
established.

19. Where a municipal corporation, before the 14th day of April, 1908, incurred a debt in establishing or extending a system established under the Act passed in the 6th year of His late Majesty's reign, Chaptered 41, the council of the initiating municipality may by by-law provide for the issue of debentures for the payment of such debt, and any agreement heretofore entered into by the subscribers to such system to pay such debt shall be deemed sufficient authority for the passing of the by-law if the by-law in all other respects complies with the provisions of section 17. 2 Geo. V. c. 38, s. 19.

Right to issue
debentures.

20. The initiating municipality may agree with any person for the establishment of the exchange or switchboard of a telephone system established under this Part in any suitable building owned or occupied by such person, and for the operation by him of such exchange or switchboard, and may embody the terms of such agreement in the by-law for establishing or extending the system. 2 Geo. V. c. 38, s. 20.

21.—(1) Upon a petition of the majority of the subscribers the Council shall place the system under the supervision of a Board of three commissioners who shall be responsible for the efficient construction, maintenance and operation of all plant and equipment comprising the system and all extensions thereof.

(2) The Commissioners shall be elected at a general meeting of the subscribers called for the purpose in such manner as the Council directs.

(3) The subscribers in general meeting assembled may make by-laws not contrary to law or to this Act, to regulate—

(a) The time and place at which the meetings of subscribers shall be held, the calling of meetings, and the procedure at such meetings;

(b) The term of service, manner of election, duties and remuneration of the commissioners;

(c) The management of the system;

(4) The members of the council shall have the right to attend and vote at all meetings of the subscribers.

(5) If the subscribers fail to petition the council, as provided in subsection 1, the supervision of the system shall remain in the control of the council which shall have authority to employ such persons as it may deem necessary for the efficient construction, maintenance and operation of the system, and to make all necessary expenditures in connection therewith.

(6) Nothing in this section shall affect the rights of the initiating municipality in regard to the levying or collecting of any money which may from time to time be due to the initiating municipality from the subscribers for repayment of principal and interest or the cost of operation and maintenance as provided in this Act. 2 Geo. V. c. 38, s. 21.

(7) For the purposes of this section "subscribers" shall mean and include only assessed landowners who are resident in the initiating municipality or in an adjoining municipality into which the initiating municipality has the right to extend its system, and whose premises are connected with the telephone system of the initiating municipality or who may have applied to have their premises so connected. 3-4 Geo. V. c. 40, s. 9.

Superintendence of works by Board.

22. The Board shall have authority to superintend the carrying out of this Part, and advise any municipal corporation or resident assessed landowners in the establishment or operation of any works authorized by this Act and the proceedings necessary thereto. 2 Geo. V. c. 38, s. 22.

PART III.

REGULATION OF TELEPHONE COMPANIES AND SYSTEMS.

Powers of Board.

23. The Board shall have jurisdiction to enquire into, hear and determine any application by or on behalf of any person interested,

Rev. Stat. c. 185.

(a) Complaining that any Company has failed to do any act, matter or thing required by *The Ontario Railway Act*, this Act, any general or special Act, or by any regulation, order or direction made thereunder by the Lieutenant-Governor in Council, the Board, or any other authority, to be done by the company, or that any company has done or is doing anything contrary to or in violation of such Acts or any of them or any such regulation, order or direction;

(b) Complaining that any company is charging tolls in excess of those approved by the Board;

(c) Requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to make or give. 2 Geo. V. c. 38, s. 23.

Power of Board to compel performance of duties.

24. The Board may order or require any company to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as it is not inconsistent with the Acts hereinbefore mentioned, or any of them, or this Act or the Special Act, anything which such company is or may be required or authorized to do thereunder, and may forbid the doing or continuing of any thing which is contrary thereto. 2 Geo. V. c. 38, s. 24.

General powers of Board.

25. For the purposes of this Act the Board shall have full jurisdiction to hear and determine all matters of law or of fact. 2 Geo. V. c. 38, s. 25.

Standard conditions and specifications for construction, etc.

26.—(1) The Board may prescribe standard conditions and specifications for the construction and equipment of all telephone systems, and may make such orders for the maintenance thereof as the Board shall from time to time determine to be necessary or desirable, but such standard conditions or specifications shall not apply to the existing plant or equipment of a telephone system in course of construction,

or operated by any company prior to the 30th day of June, 1911, but only to the renewal or replacement thereof whenever such renewal or replacement may, in the opinion of the Board, become necessary as a result of depreciation or obsolescence.

(2) In prescribing such conditions and specifications the Board shall take into consideration only such standards as in ^{to take} ^{into con-} ^{sideration.} general practice may have been found necessary for the protection of life and property and for the provision of an efficient service to the public without regard to any particular type of equipment or apparatus.

(3) The Board, whenever in its judgment it appears that ^{Assistance} ^{to appli-} ^{cants.} such a procedure is necessary or desirable in the public interest, may render to any company requesting the same such advisory, supervisory, or other assistance respecting the construction, management and operation of telephone systems as the Board may deem advisable, and may fix the terms and conditions under which any such assistance shall be given. 2 Geo. V. c. 38, s. 26 (1-3).

(4) The Board may, in its discretion, prescribe the forms ^{Forms of} ^{accounts.} of any and all accounts, records and memoranda to be kept by companies subject to the provisions of this Act. 3-4 Geo. V. c. 40, s. 11.

(5) The Board, whenever in its judgment it appears that it ^{Examination} ^{of and report} ^{upon exist-} ^{ing systems.} is desirable or necessary for the purpose of carrying into effect any of the provisions of this Act, may appoint or direct any person to examine and report upon the construction, operation or management of any telephone system, and for that purpose such person shall have authority at all reasonable hours to enter any building, office, or other premises belonging to or connected with any such system and to examine and check all books, accounts, tariffs, rates, balance sheets and other papers, records and documents relating to any such system, and to examine the switchboards, instruments, toll stations and all other property of whatsoever nature which belongs to or forms a part of such system and the Board may make such orders in regards to the construction, reconstruction, operation or maintenance of any telephone system which it may deem desirable or necessary in the public interest. 2 Geo. V. c. 38, s. 26 (4); 3-4 Geo. V. c. 40, s. 10.

(6) Whenever the poles and wires of two or more tele- ^{Use of one} ^{lead of} ^{poles by two} ^{systems.} phone systems or lines are erected, or are proposed to be erected, upon or along the same highway and the pole leads of the systems or lines are or are proposed to be located parallel with each other the Board, whenever in its judgment it appears to be necessary or desirable and practicable, may for the purpose of avoiding the unnecessary duplication of pole leads upon or along the same portion of any highway.

make such orders as it may deem expedient for the joint occupation by the wires or cables of two or more companies of the same lead of poles. 2 Geo. V. c. 38, s. 26 (5).

Regulations.

(7) The Board may approve of regulations made by any company for the purpose of preventing wilful interference with or interruption of conversations or messages over the lines of any telephone system, and any person offending against any of such regulations shall incur a penalty not exceeding \$25, recoverable under *The Ontario Summary*

Rev. Stat. c. 90. *Convictions Act*. 3-4 Geo. V. c. 40, s. 11.

Furnishing
reports, etc.

27. Every company operating a telephone system shall, on or before the first day of January in each year, or at such other times as the Board may require, furnish to the Board, in such form as it shall prescribe, such statements, reports and returns respecting the cost, receipts, expenditure, operation, management and equipment of such system as the Board may deem desirable or necessary, and any company refusing or neglecting to furnish such statements, reports and returns when required by the Board shall incur a penalty not exceeding \$25 for each such act of refusal or neglect, and the same shall be recoverable under *The Ontario Summary*

Rev. Stat. c. 90. *Convictions Act*. 2 Geo. V. c. 38, s. 27.

Interchange
of service.

28. Notwithstanding anything in any Act contained, if in the opinion of the Board it becomes necessary or desirable for the purpose of carrying into effect any order of the Board made in accordance with the provisions of sections 33 and 36 for any company to erect poles, cables, ducts or wires upon any road or highway of a town, village or township municipality, such company shall have the right to erect such poles, cables, ducts and wires along such road or highway upon such terms and conditions as may be agreed upon between the Council of the town, village or township municipality and the company, and if the Council and the company are unable to agree then upon such terms and conditions as shall be prescribed by the Board. 2 Geo. V. c. 38, s. 28; 3-4 Geo. V. c. 40, s. 12.

Terms.

Prohibition
of sales or
transfers of
systems
to certain
companies
without
consent of
Lieutenant-
Governor
in Council.

29. Notwithstanding anything in any Act contained no company owning a telephone system or a controlling interest therein shall sell or transfer such system or controlling interest to, or amalgamate with, or enter into any agreement or arrangement which shall, in effect, transfer the ownership or control of such system or controlling interest to any company which has been declared to be a work for the general advantage of Canada, or which is not within the Legislative jurisdiction of Ontario, until the Lieutenant-Governor in Council has approved such sale, transfer, amalgamation, agreement or arrangement. 2 Geo. V. c. 38, s. 29.

30.—(1) The Board may make orders and regulations with respect to anything which by any of the Acts hereinbefore mentioned, or by this Act or the Special Act, is sanctioned or required to be done or is prohibited, and generally for carrying such Acts into effect. Orders and regulations of Board.

(2) The Board may by regulation prescribe penalties when not prescribed by any of such Acts to which every company offending against any regulation made under this section shall be liable, but no such penalty shall exceed \$100. Prescribing penalties.

(3) The imposition of any such penalty shall not affect any other liability which the company may have incurred. Liability not affected. 2 Geo. V. c. 38, s. 30.

31.—(1) Notwithstanding anything in any Act heretofore passed by this Legislature all tolls to be charged by any company shall be subject to the approval of the Board. Tolls.

(2) Every company shall file with the Board tariffs of tolls in such form, size, and style, and give any such information, particulars and details as the Board from time to time by general regulation or by regulation applicable to the particular case may prescribe, and no company shall charge any toll in respect of which there is default in such filing or which is disallowed by the Board. Duty to file tariffs. 2 Geo. V. c. 38, s. 31.

32. The Board may, by regulation or otherwise, determine and prescribe the manner and form in which any tariff of tolls shall be published or kept open for public inspection. Publication of tolls. 2 Geo. V. c. 38, s. 32.

33.—(1) Subject to the approval of the Board every company may enter into any agreement with any other company for the purpose of providing for connection, inter-communication, joint operation, reciprocal use, or transmission of business as between the respective systems controlled, owned or operated by such companies, and make such arrangements as shall be deemed advisable for the proper apportionment of expenditures and commissions, the division of receipts and profits, or such other adjustments as may be necessary under any such agreement. Agreements for connections, joint operation, etc.

(2) Wherever the telephone systems or lines of two or more companies are situate in such proximity to one another as in the opinion of the Board to make it expedient in the public interest that they should be connected in order that there may be intercommunication between, or joint operation or reciprocal use of them, or that such systems or lines may be used jointly by such companies for the transmission of messages by means of or over such systems or lines, the Board, if either of such companies refuses to enter into an agreement with the other, under the authority of subsection 1, shall order that such connection be made, and shall deter- Power of Board to order connections and construction of necessary works.

mine and direct by whom, and in what manner any line or works necessary for the purpose of making such connection shall be constructed and maintained, and how the expenses incurred in constructing and maintaining them shall be borne, and shall direct that there shall be such intercommunication between, and joint operation and reciprocal use of, and such transmission of messages over such systems or lines, including any such connecting line or works upon such terms and conditions as the Board may prescribe, and it shall be the duty of such companies to do all things necessary for the purpose of carrying into effect every such order or direction.

Determina-
tion to be
question of
fact.

(3) The determination of the Board in any such matter shall be deemed to be a determination of a question of fact.

Order of
Board final.

(4) No order or direction of the Board made or given in the exercise of the powers conferred by subsection 2 shall be subject to appeal or be open to review except by the Board.

Application
of section.
8 Edw. VII.
c. 49.

(5) This section shall apply to a telephone system or lines established under *The Local Municipal Telephone Act, 1908*, or under the Act repealed by that Act, or any Act repealed by this Act, and the council of the municipality by which such telephone system or lines were established shall have, for the purpose of constructing any connecting line or works which the Board has directed to be constructed by it the like powers as are conferred upon the council of an initiating municipality by section 17, and such powers may be exercised without a petition from the subscribers. 2 Geo. V. c. 38, s. 33.

Agreements
to be ap-
proved of by
Board.

34. Every agreement or arrangement between any company, and any other company having authority to construct or operate a telephone system or line, whether such authority is derived from this Legislature or otherwise, for the regulation and interchange of telephone messages or service passing to and from their respective systems and lines, or for the division or apportionment of tolls, or generally in relation to the management, working or operation of their respective systems, or of lines operated in connection with them or either of them, shall be subject to the approval of the Board, and shall be submitted to and approved by the Board before such agreement or arrangement shall have any force or effect. 2 Geo. V. c. 38, s. 34.

Agreements
restricting
competition,
etc.

35. No company shall enter into any agreement or arrangement with any other company having authority to construct or operate a telephone system or line, whether such authority is derived from this Legislature or otherwise, which in the opinion of the Board has or may have the effect of increasing the cost of telephone service to the public or of restricting competition in the supply of such service until

such agreement or arrangement has been submitted to and approved of by the Board as just and reasonable. 2 Geo. V. c. 38, s. 35.

36. Notwithstanding anything in any Act contained, when-
 ever any person makes application to any company for tele-
 phone service such company shall furnish such telephone
 service upon such terms and conditions as may be directed
 by the Board. 2 Geo. V. c. 38, s. 36.

37. The provisions of *The Ontario Railway and Municipal
 Board Act*, with respect to the jurisdiction and powers of
 the Board, and as to practice and procedure, shall apply
mutatis mutandis to the exercise of the jurisdiction conferred
 on the Board by this Act, and the decision of the Board on
 any question of fact shall be final. 2 Geo. V. c. 38, s. 37.

PART IV.

INCORPORATION AS COMPANIES.

38.—(1) Whenever an association, partnership or aggre-
 gation of individuals owning or operating a telephone system
 or line, by a vote of not less than three-fourths of its mem-
 bers, decide to become incorporated under *The Ontario Com-
 panies Act* they may do so, and the proposed company shall
 be entitled and be bound to purchase the share or interest in
 such telephone system or line of any dissentient member,
 partner or individual, and if the company and such dissen-
 tient member, partner or individual are unable to agree as
 to the value of such share or interest the same shall be deter-
 mined by the Board.

(2) In computing the value of any such share or interest
 there shall be included, in addition to any sum contributed
 for the purposes of the association, partnership or aggrega-
 tion of individuals, the value of any poles, cables, ducts,
 wires and other equipment, including the cost of installa-
 tion, for which such member, partner or individual has not
 already been reimbursed. 2 Geo. V. c. 38, s. 38.

CHAPTER 189.

An Act respecting Corporations operating certain
Public Utilities.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Public Utilities Corporations Act*. *New.*

2. In this Act,

"Public
Utility,"
meaning of.

"Public Utility" shall mean and include any water works, gas works, electric heat, light or power works, telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessities or conveniences.
7 Edw. VII. c. 37, s. 1.

Forfeiture of
rights by com-
pany passing
out of jurisdic-
tion of Pro-
vince.

3.—(1) Where the undertaking of a company operating a Public Utility heretofore or hereafter incorporated under a general or special Act of this Legislature has been, since the 19th day of February, 1907, or hereafter shall be declared by the Parliament of Canada to be a work for the general advantage of Canada, or absorbed by or amalgamated with or controlled or operated by any other company whose undertaking is or has been declared a work for the general advantage of Canada, or which is not subject to the legislative control of Ontario, the Lieutenant-Governor in Council may declare that all or any of the powers, rights, privileges and franchises conferred upon such first mentioned company by letters patent or by any general or special Act of this Legislature shall be forfeited and thereupon all such powers, rights, privileges and franchises so declared to be forfeited shall cease and determine; and every municipal by-law passed and every agreement entered into with any municipal corporation authorizing such company to carry on business or granting to it any right, privilege or franchise shall also thereupon become void and be of no effect, and such company shall forfeit all claim to any bonus or other aid granted by any municipal corporation or by this Legislature.

Proviso.

(2) Nothing in this section shall affect the validity of any debenture issued by a municipal corporation for payment

of any such bonus in the hands of a *bona fide* holder for valuable consideration, nor the claim of any *bona fide* creditor of such company. 7 Edw. VII. c. 37, s. 2.

4.—(1) Notwithstanding anything in any Act contained a municipal corporation shall not hereafter enter into any agreement with any such company or pass any by-law in relation to any Public Utility which has been declared to be a work for the general advantage of Canada, or which is not within the legislative control of Ontario, until the Lieutenant-Governor in Council has approved of such agreement or by-law, and every agreement entered into and by-law passed in violation of this section shall be utterly void and of no effect.

Municipal corporations not to contract with companies not under jurisdiction of Province.

(2) The Lieutenant-Governor in Council may, from time to time, in advance of such agreements or by-laws approve of any class or description of such agreements or by-laws in regard to any corporation named in the Order in Council. 7 Edw. VII. c. 37, s. 3.

Proviso.

CHAPTER 190.

An Act respecting Security by Guarantee Companies.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Guarantee Companies Securities Act*. 9 Edw. VII. c. 67, s. 1.

2. In this Act,

Interpretation.

“Guarantee company” shall mean an incorporated company empowered to grant guarantees, bonds, policies, or contracts for the integrity and fidelity of employed persons, or in respect of any legal proceedings or for other like purposes approved by the Lieutenant-Governor in Council. 9 Edw. VII. c. 67, s. 2.

Bonds of Guarantee Company may be taken by officers and others.

3. Where any judge, functionary, officer or person is entitled or required to take security by bond with sureties he may in lieu thereof take the bond, policy or guarantee contract of a guarantee company of the like nature and effect. 9 Edw. VII. c. 67, s. 3.

Persons required to give security may give bond of Guarantee Company.

4. Where any person is required to give security by bond with sureties he may in lieu thereof furnish the bond, policy or guarantee contract of a guarantee company of the like nature and effect. 9 Edw. VII. c. 67, s. 4.

Justification not required.

5. The guarantee company shall not be bound or required to justify. 9 Edw. VII. c. 67, s. 5.

Bond of Company may be substituted for other bonds.

6. The bond, policy or guarantee contract of a guarantee company may be taken instead of or in substitution for any existing security if the judge, functionary, officer or person, mentioned in section 3, so directs. 9 Edw. VII. c. 67, s. 6; 2 Geo. V. c. 39, s. 1.

Interim receipt in lieu of bond.

7. The interim receipt of a guarantee company may be accepted in lieu of a bond, policy or guarantee contract, but the latter shall be furnished within one month. 9 Edw. VII. c. 67, s. 7.

8. Every Order in Council approving of a guarantee company shall immediately after the making thereof be published in the *Ontario Gazette*, and shall be laid forthwith before the Assembly if in session and if not then in session then within the first fifteen days of the next session thereof.

2 Geo. V. c. 39, s. 2.

Publication of
Order in
Council and
laying before
Assembly.

CHAPTER 19A.

An Act respecting Cheese and Butter Exchanges.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Cheese and Butter Exchanges Act*.

Incorporation of cheese and butter exchanges.

2.—(1) Any five or more persons each of whom shall be

(a) Engaged in the manufacture and sale of cheese or butter, or a member of some firm or partnership carrying on the business of manufacturing cheese or butter, or a person appointed in writing to represent any person, firm or partnership or the patrons of a factory so engaged, or

(b) A person elected or appointed by the shareholders of any cheese or butter manufacturing association or company, or

(c) Engaged in the business of buying cheese or butter for export or re-sale, or appointed in writing to represent any person, firm or corporation engaged in such business,

Certificate of Association.

who desire to associate themselves together for the purpose of carrying on a cheese and butter exchange may make, sign and acknowledge before a notary public, a commissioner for taking affidavits, or a justice of the peace, in duplicate, and file in the office of the registrar of the registry division in which such exchange is to be carried on a certificate in writing, Form 1, or to the same effect, together with the rules and regulations signed by such persons respectively.

Verifying signature to rules.

(2) The signatures to the rules shall be verified by the affidavit of the subscribing witness thereto made before a notary public, justice of the peace or commissioner authorized to take affidavits, or before the registrar or deputy-registrar.

Approval of rules by Minister.

(3) Before the filing of the certificate and rules they shall be approved by the Minister of Agriculture of Ontario in writing signed by him and endorsed thereon.

Corporate powers.

(4) Upon the filing of the certificate and rules, the persons signing such declaration and rules shall become a body corporate by the name described with the power to hold such land and other real and personal property as are

required for the convenient management of the business of such exchange. 62 V. (2), c. 20, s. 1.

3.—(1) The registrar shall, if desired by the person filing the certificate, endorse on the other duplicate certificate and upon the duplicate of the rules, certificates of the other duplicates having been filed in his office with the date of filing, and every such certificate shall be *prima facie* evidence of the facts set out therein and of the incorporation of the exchange. Endorsement of registrar effect of as evidence.

(2) The certificate so to be filed shall designate the place where the business of the exchange is to be carried on. 62 V. (2), c. 20, s. 2.

4. The fees to be charged by the registrar for filing any certificate shall be fifty cents, and for every search relating thereto ten cents. 62 V. (2), c. 20, s. 3. Fees of registrar.

5. The rules to be filed as hereinbefore mentioned shall contain regulations respecting,— Rules, what to be dealt with.

- (a) The mode of convening general and special meetings of the members of the exchange; Meetings.
- (b) Provisions for the auditing of the accounts of the exchange. Audit.
- (c) The power and mode of withdrawal of members and the admission, suspension and expulsion of members; Admission, etc., of members.
- (d) The appointment of officers and their respective duties, including provisions for filling vacancies caused by death, resignation and other causes; Officers.
- (e) The mode of conducting the purchase and sale of cheese and butter at the exchange, and contracts for the purchase and sale thereof by members of the exchange; Conduct of business.
- (f) The inspection, weighing and shipment of cheese and butter and the time and mode of payment for cheese or butter bought or sold on the exchange; Inspection, etc., of cheese and butter.
- (g) Imposing penalties for the infraction of the rules of the exchange by members thereof; Penalties for infraction of rules.
- (h) The annual and other fees to be payable by members of the exchange; and Fees of members.
- (i) The settlement by arbitration of disputes respecting contracts made on the said exchange. 62 V. (2), c. 20, s. 4. Arbitrations.

Rules to bind
members.

6. The rules of every exchange registered under this Act shall bind the exchange and members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto, and all money payable by any member to the exchange in pursuance of any such rule shall be deemed to be a debt due from such member to the exchange and shall be recoverable by action. 62 V. (2), c. 20, s. 5.

Changes in
rules not to
take effect
until approved
by minister.

7. All rules made by the exchange may be repealed, altered or amended by other rules passed at any meeting of the members of the exchange specially called for that purpose, but no new rules shall have any force or effect until a copy, proved by the affidavit of the president or other head officer of the exchange to be a true copy of the rules passed by the members of the exchange at a meeting specially called for the purpose of considering the same, has been approved in writing endorsed thereon by the Minister of Agriculture and has been filed in the registry office in which the certificate of incorporation was filed. 62 V. (2), c. 20, s. 6.

Annual return
to Minister of
Agriculture.

8. The secretary, or other officer appointed for this purpose by any exchange incorporated under this Act, shall once in every year transmit to the Minister of Agriculture a list of the officers of such exchange and a statement of the business transacted by the exchange during the year in such form as the Minister may direct and on such schedules as he may provide. 62 V. (2), c. 20, s. 7.

FORM 1.

(Section 2.)

CERTIFICATE OF ASSOCIATION.

Province of Ontario,) We (insert names of subscribers not less than
TO WIT:) five) do hereby certify that we desire to
form an association pursuant to the provisions of *The Cheese and
Butter Exchanges Act*.

The corporate name of the Exchange is to be (insert name of the
Exchange), and the
name of the place (or places) where the operations of the said
Exchange are to be carried on is (or are) (insert name of place or
places where the operations of such Exchange are to be carried
on).

Dated this

day of

(Signatures.)

On the day of A.D. 19 . before me personally
appeared (insert names of subscribers to the certificate) to me
known to be the individuals described in the foregoing certificate
and they severally before me signed such certificate and
acknowledged that they signed the same for the purposes therein
mentioned.

A. B.,

Justice of the Peace, or
Commissioner for taking Affidavits, or Notary Public.

62 V. (2), c. 20, Schedule.

SECTION XIV.

MUNICIPAL MATTERS.

CHAPTER 192.

An Act respecting Municipal Institutions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

1. This Act may be cited as *The Municipal Act*. 3-4 Geo. Short title.
V. c. 43, s. 1.

2. In this Act,

Interpreta-
tion.

- (a) "Arbitration" shall mean an arbitration under the provisions of this Act. "Arbitra-
tion."
- (b) "Bridge" shall mean a public bridge, and shall include a bridge forming part of a highway or on, over or across which a highway passes. "Bridge."
- (c) "City," "town," "village," "township," and "county" shall respectively mean city, town, village, township or county, the inhabitants of which are a body corporate within the meaning and for the purposes of this Act. "City," "Town," "Village," "Township," "County."
- (d) "Electors," when applied to a municipal election, shall mean the persons entitled to vote at a municipal election, when applied to voting on money by-law shall mean the persons entitled to vote on the by-law and when applied to voting on any other by-law or on a resolution or question unless otherwise provided by the Act, by-law, or other authority under which the vote is taken, shall mean municipal electors. "Electors;"
- (e) "Highway" shall mean a common and public highway, and shall include a street and a bridge forming part of a highway, or on, over or across which a highway passes. "Highway."

- "Land" (f) "Land" shall include lands, tenements, and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water.
- "Local Municipality." (g) "Local municipality" shall mean a city, a town, a village and a township.
- "Member." (h) "Member" or "members," referring to a member or members of a council shall include the head of the council, and a member or members of a Board of Control.
- "Money by-law." (i) "Money by-law" shall mean a by-law for contracting a debt or obligation or for borrowing money.
- "Municipal Board." (j) "Municipal Board" shall mean Ontario Railway and Municipal Board.
- "Municipal electors." (k) "Municipal electors" shall mean the persons entitled to vote at a municipal election.
- "Municipality." (l) "Municipality" shall mean a locality, the inhabitants of which are incorporated.
- "Population." (m) "Population" shall mean population as determined by the last preceding census taken under the authority of the Parliament of Canada, or under a by-law of the council, or by the last preceding municipal enumeration by the assessor whichever shall be the latest.
- "Prescribed." (n) "Prescribed" shall mean prescribed by or under the authority of this Act.
- "Published." (o) "Published" shall mean published in a newspaper in the municipality to which what is published relates, or which it affects, or if there is no newspaper published in the municipality, in a newspaper published in an adjacent or neighbouring municipality; and "publication" shall have a corresponding meaning.
- "Publication." (p) "Separated town" shall mean town separated for municipal purposes from the county in which it is situate.
- "Separated town." (q) "Separated town" shall mean town separated for municipal purposes from the county in which it is situate.
- "Supreme Court." (r) "Separated town" shall mean town separated for municipal purposes from the county in which it is situate.
- "Township." (s) "Separated town" shall mean town separated for municipal purposes from the county in which it is situate.
- "Two-thirds vote." (t) "Separated town" shall mean town separated for municipal purposes from the county in which it is situate.

- (t) "Unorganized territory" shall mean that part of Ontario without county organization. "Unorganized territory."
- (u) "Urban municipality" shall mean and include a city, a town, and a village. 3-4 Geo. V. c. 43, s. 2. "Urban municipality."

3.—(1) Where under the provisions of this Act evidence is taken orally before a Special Examiner or a Judge he may direct that the same be taken in shorthand by a stenographic reporter. When evidence may be taken in shorthand.

(2) The fees of the stenographic reporter including those for the transcribing of his notes shall be paid by the party on whose behalf the evidence is taken, and the same shall form part of the costs of the proceedings in which the evidence is taken. 3-4 Geo. V. c. 43, s. 3. Fees of reporter, how paid.

4. Where registration in a registry office is prescribed or provided for by this Act it shall mean where *The Land Titles Act* is applicable, registration in the office of the Master or Local Master of Titles of the locality in which the land is situate. 3-4 Geo. V. c. 43, s. 4. Registration in office of land titles. Rev. Stat. c. 126.

5. A person in the actual occupation of land under an agreement with the owner for the purchase of it shall be deemed to be the owner, and the unpaid purchase money shall be deemed to be an encumbrance on the land. 3-4 Geo. V. c. 43, s. 5. When occupant deemed to be owner.

6. Where power to acquire land is conferred upon a municipal corporation by this or any other Act, unless otherwise expressly provided, it shall include the power to acquire by purchase or otherwise and to enter on and expropriate. 3-4 Geo. V. c. 43, s. 6. Power to acquire includes expropriation.

7. Except where otherwise expressly provided, this Act shall not affect the provisions of any special Act relating to a particular municipality. 3-4 Geo. V. c. 43, s. 7. Special Acts not affected.

8. The inhabitants of every county, city, town, village, and township shall be a body corporate for the purposes of this Act. 3-4 Geo. V. c. 43, s. 8. Inhabitants of municipalities to be bodies corporate.

9. The name of the body corporate shall be "*The Corporation of the County [United Counties, City, Town, Village, Township (as the case may be)], of (naming the municipality).*" 3-4 Geo. V. c. 43, s. 9. Names of municipal corporations.

10. The powers of a municipal corporation shall be exercised by its council. 3-4 Geo. V. c. 43, s. 10. Council to exercise corporate powers.

PART I.

*FORMATION OF NEW CORPORATIONS AND
ALTERATIONS OF BOUNDARIES OF
MUNICIPALITIES.*

"District,"
meaning of.

11. In this Part, "district" shall mean part of a township or parts of two or more townships which it is proposed to erect into a village or part of a township which it is proposed to add to another municipality, or the part so erected or added, as the case may be. 3-4 Geo. V. c. 43, s. 11.

Erection of
village.

12. Under and subject to the provisions and conditions hereinafter mentioned, a district may be erected into a village by the council of the county in which it is situate, or if the district comprises parts of two or more counties by the council of the county in which the larger or largest part of the district is situate. 3-4 Geo. V. c. 43, s. 12.

Procedure
for erection
of village.

13.—(1) Where a petition, signed, if the district or part of it lies within one mile of the limits of a city having a population of not less than 100,000, by at least two-thirds and in other cases by at least 100 of the freeholders and resident tenants of the district whose names are entered on the last revised assessment roll of the municipality in which the district is situate, and in the case of tenants who have been resident in the district for at least four months next preceding the presentation of the petition, all of the petitioners being of the full age of 21 years, and at least one half of them freeholders, praying for the erection of the district into a village, is presented to the council, the council, if the district has a population exceeding 750, shall, within three months after the presentation of the petition, pass a by-law erecting the district into a village, declaring the name which it shall bear and its boundaries.

Lot of
petitioner
to be
designated.

(2) Opposite the name of every petitioner there shall be shown, by reference to the number of the lot, the land owned or occupied by him, and where it is or forms part of a lot laid down on a registered plan, the reference shall be to the number of the lot according to the plan, and the petition shall also show whether the petitioner is a freeholder or resident tenant.

Presentation
of petition.

(3) A petition shall be deemed to be presented when it is lodged with the clerk, and the sufficiency of the petition shall be determined by him and his certificate shall be conclusive in reference thereto.

Special
census.

(4) The number of the inhabitants of the district shall be ascertained by a special census taken by direction of the council.

Time for
passing
by-law.

(5) The by-law shall not be passed before the expiration of one month after the presentation of the petition, or unless within two months next preceding the meeting of the council

at which it is to be considered notice has been given of the intention of the council to take it into consideration.

(6) The notice shall be published at least once a week for two successive weeks, and shall contain a description of the district sufficiently full to indicate the land which it is intended to embrace in the proposed village. Publication of notice as to consideration of by-law.

(7) The council may require that the expenses of taking the census and of publishing the notice be paid by the petitioners, or that a sum sufficient to defray them be deposited with the clerk. Expenses of census, etc.

(8) The clerk shall forthwith, after the passing of it, transmit a certified copy of the by-law to the Provincial Secretary, who shall cause notice of it to be published in the *Ontario Gazette*. By-law to be published in Ontario Gazette.

(9) After the expiration of three months from the publication of the notice of the by-law, and after the final disposition of any application to quash it made within that period, if the application is unsuccessful, the by-law shall not be liable to be quashed on any ground, and the village thereby erected shall be deemed to have been duly erected in accordance with the provisions of this Act. 3-4 Geo. V. c. 43, s. 13. Time for applying to quash by-law.

14.—(1) Subject to subsection 2, the area of a town or village hereafter erected shall not exceed five hundred acres for the first one thousand or less, with two hundred acres added for each additional one thousand in excess of one thousand of its population. Area of town or village in a county.

(2) In unorganized territory, the area of a town shall not exceed 750 acres for the first 500 of its population, with 300 acres added for each additional 500. In unorganized territory.

(3) An addition shall not be made to any town or village which will have the effect of increasing its area beyond the prescribed area. No addition beyond prescribed area.

(4) Land occupied by highways, parks, and public squares shall be excluded in determining the area. 3-4 Geo. V. c. 43, s. 14. Highways, parks, etc., not to be included in area.

15.—(1) Where a village comprises parts of two or more counties, it shall be annexed to, and form part of, that one of them which shall be agreed on by the councils, or which, failing an agreement within six months after the presentation of the petition, the Lieutenant-Governor in Council may by proclamation direct. Annexation of village in two or more counties to one county.

(2) If an agreement is come to, the clerk of each of the councils shall forthwith notify the Provincial Secretary of it, and, if an agreement is not come to within the period mentioned in subsection 1, shall forthwith, after the expiration of that period, notify the Provincial Secretary of the fact. Agreement between councils as to annexation of village.

If councils agree notice to be published in Gazette.

(3) Where the councils agree as to the county to which the village shall be annexed, the Provincial Secretary shall forthwith, after notice of the agreement, cause to be published in the *Ontario Gazette* notice of the county to which the village has been annexed. 3-4 Geo. V. c. 43, s. 15.

Erection of police village into a village.

16. A police village may be erected into a village in the manner and subject to the conditions mentioned in section 13. 3-4 Geo. V. c. 43, s. 16.

Annexation of district to village.

17. The Municipal Board may, upon the application of the council of a village, annex a district to it where from the proximity of the streets or buildings in the district or the probable future exigencies of the village, the Board deems it expedient. 3-4 Geo. V. c. 43, s. 17.

Annexation of land to township in unorganized territory.

18.—(1) The Municipal Board may annex land in unorganized territory to an adjacent incorporated township therein, and may also, on the application of two or more adjacent townships in such territory, form them, with or without additional territory, into one township municipality, bearing such name as the Board may direct.

Annexation of land to city or town in unorganized territory.

(2) The Board, on the application of the council of a city or town in unorganized territory, may annex to the city or town the whole or any part of an adjoining unorganized township, on such terms and conditions as may be determined by the Board. 3-4 Geo. V. c. 43, s. 18.

Incorporation of towns in unorganized territory.

19.—(1) Subject to subsection 2 of section 14, the Municipal Board may, upon the application of not less than 75 male inhabitants of the locality, each of the full age of twenty-one years, incorporate as a town the inhabitants of a locality having a population of at least 500, and situate in one or more of the provisional judicial districts, whether or not it lies within an existing township municipality.

Order of Board.

(2) The order of the Board shall declare the name which the town shall bear, and its boundaries. 3-4 Geo. V. c. 43, s. 19.

Erection of cities and towns.

20.—(1) The Board may erect a town having a population of not less than 15,000 into a city, and a village having a population of not less than 2,000 into a town, and declare the name which it is to bear.

Part of township may be included.

(2) Where, from the proximity of streets or buildings or the probable future exigencies of the newly erected city or town, the Board deems it desirable that part of one or more adjacent townships should be included in it, the Board may, subject to the provisions of subsection 6, detach such part from the township or townships and annex it to the newly erected city or town.

(3) The newly erected city or town shall be divided into wards bearing such numbers or names as the Board may direct. Division into wards.

(4) The number of wards in the town shall not be less than three, and each of the wards in the city or town shall have a population of not less than five hundred. Number of wards.

(5) Notice of the application for the erection of a town into a city or of a village into a town shall be published at least once a week for three months. Notice of application.

(6) Where it is proposed that part of one or more adjacent townships shall be embraced in the newly erected city or town, the notice shall so state and shall designate the part proposed to be embraced therein. Part of township included to be described.

(7) The order shall be conclusive evidence that all conditions precedent to the making of it have been complied with, and that the city or town has been duly erected in accordance with the provisions of this Act. 3-4 Geo. V. c. 43, s. 20. Force of order.

21.—(1) Where the council of a city or town by resolution declares that it is expedient that part of an adjacent township should be annexed to the city or town, and the majority of the municipal electors in such part petition the Board to add the same to such city or town, and after due notice of such resolution and petition has been given by the council of such city or town to the council of such adjacent township, and also, where the part is proposed to be added to a city or to a separated town to the council of the county in which the township is situate, the Board may, by order to take effect upon a day to be named therein, annex such part to the city or town upon such terms and conditions as to the adjustment of assets and liabilities, taxation, assessment, improvements or otherwise as may have been agreed upon, or as shall be determined by the Board. Adding territory to city or town.

(2) The order may, before it takes effect, be amended in any respect by a further order, and may at any time when it does not correctly set forth the terms and conditions as to the adjustment of assets and liabilities, taxation, assessment, improvements or otherwise agreed upon, be amended to conform with the agreement. Amendment of order.

(3) The Board may direct that a vote be taken for determining whether or not the majority of the municipal electors of the part proposed to be annexed are in favour of its being annexed, and may fix the time and place for the taking of the vote, name the returning officer and make such other provisions as may be deemed necessary. 3-4 Geo. V. c. 43, s. 21. Board may order vote to be taken.

22. Where territory constituting or forming part of a local municipality becomes part of a local municipality in another county, it shall thereafter form part of that county. Adding territory to municipality in another county.

except for the purpose of representation in the Assembly.
3-4 Geo. V. c. 43, s. 22.

Annexation
of town
or village
to adjacent
urban muni-
cipality.

23.—(1) The Board may annex a town or a village to an adjacent urban municipality, where:

(a) The councils of the town or village and of the adjacent urban municipality by by-law assent to the annexation; and

(b) The assent of the municipal electors of the town or village is given to the by-law of the council thereof.

Provisions
of by-law.

(2) Subject to the provisions of subsection 5, the by-law may provide for the annexation unconditionally, or on such terms as may be deemed expedient.

New city
or town
may be
erected.

(3) If the urban municipality to which the town or village is annexed has the requisite population, it may be erected into a city or town bearing such name as the Board may direct.

Division
into wards.

(4) Such redivision into wards of the city or town as the annexation renders necessary shall also be made.

By-law to be
submitted
on petition
of 150
electors.

(5) If a petition, signed by at least 150 electors of a town or village, praying that it may be annexed to an adjacent urban municipality, either unconditionally or on such terms as may be stated in the petition, is presented to the council of the town or village the council shall within four weeks after the presentation of the petition submit to the electors of the town or village for their assent thereto, a by-law providing for its annexation on the terms mentioned in the petition. 3-4 Geo. V. c. 43, s. 23.

[As to formation of new Townships, see *Rev. Stat. c. 3, s. 11.*]

TOWNSHIPS.

Formation
of townships
in unor-
ganized
territory.

24.—(1) The inhabitants of a township in unorganized territory having a population of not less than 100, and the inhabitants of a locality not surveyed into townships having an area of not more than 20,000 acres and a population of not less than 100, may become incorporated as a township municipality.

Petition
for incor-
poration.

(2) Upon the receipt of a petition praying for incorporation, signed by not less than 30 of the resident householders of the township or locality, and defining the limits of the proposed municipality, and a deposit being made of a sum sufficient to defray the expenses of the meeting to be held as hereinafter mentioned, a Judge of the District Court of the Provisional Judicial District in which the township or locality is situate may call a meeting of the inhabitants of it to consider the expediency of becoming incorporated and to choose a reeve and four councillors for the proposed municipality, and he shall name a fit person to be the chairman

District
Judge to call
meeting.

of the meeting, and make such provisions as he may deem proper for the conduct of the meeting and the manner of choosing the reeve and councillors; and notice of the meeting shall be given in such manner as the Judge shall direct.

(3) Every resident male householder of the full age of 21 years and a British subject shall be entitled to vote or to be elected as reeve or councillor at such meeting. Qualification at first election.

(4) The chairman shall preside at the meeting and shall record the votes given, and in the case of an equality of votes between two candidates for the office of reeve or councillor he shall give the casting vote, and he shall forthwith, after the close of the meeting, make a report in writing of the result of it to the Judge. Chairman of meeting.

(5) The report shall contain a statement of the votes given for and against the proposed incorporation, and for and against each person proposed for reeve or councillor, and shall be verified by the oath of the chairman. Report to Judge.

(6) If it appears to the Judge from the report that a majority of the inhabitants present at the meeting voted in favour of incorporation, and that those so voting number or include not less than 30 resident householders and no objection to the report or to the manner in which the meeting was conducted or the reeve and councillors were chosen has been filed with the Judge within 10 days after the receipt by him of the report, the Judge shall declare in writing, Form 1, the inhabitants of the township or locality to be incorporated in accordance with the prayer of the petition and state the persons who were elected as reeve and councillors and fix the time and place for the first meeting of the council, and shall forthwith transmit to the Minister of Lands, Forests and Mines, and to the Provincial Secretary, a certified copy of the declaration, and the Provincial Secretary shall thereupon cause notice of it to be published in the *Ontario Gazette*. Declaration of incorporation.

(7) If such an objection is filed within the prescribed time the Judge shall hear and determine the matter complained of, and if he finds that the complaint is well founded shall call a new meeting and perform the other duties assigned to him by subsections 2 and 6. Hearing objections.

(8) The incorporation shall be deemed to be complete when the Judge has signed the declaration, but shall not take effect until the 31st day of December following. When incorporation complete.
3-4 Geo. V. c. 43, s. 24.

UNION OF TOWNSHIPS.

25. A union of townships shall consist of two or more townships united for municipal purposes and having in common, as if one township, all offices and institutions established by law pertaining to township municipalities. Union of Townships.
3-4 Geo. V. c. 43, s. 25.

Annexation
of new
townships in
unorganized
territory
to a county.

26. The Lieutenant-Governor in Council may, by proclamation, annex a township, or two or more townships lying adjacent to one another laid out by the Crown in unorganized territory, to any adjacent county, and may erect the same with another township of such county into a union of townships. 3-4 Geo. V. c. 43, s. 26.

Incorporation
of
union of
townships.

27.—(1) The inhabitants of two or more townships in unorganized territory, adjacent to one another, and having in the aggregate a population of not less than 100, may become incorporated as a union of townships.

Proceedings.

(2) The proceedings for and incidental to the incorporation and the election of the members of the first council shall be the same as provided by section 24. 3-4 Geo. V. c. 43, s. 27.

Union of
junior township,
after
separation,
with adjoining
township.

28. If two-thirds of the resident freeholders and tenants of a junior township whose names are entered on the last revised assessment roll petition the council of the county to be separated from the union to which it belongs, and to be attached to another adjoining township in the county, and the council considers that the interest and convenience of the inhabitants of the township would be promoted thereby, such council may separate it from the union, and may erect it with such adjoining township into a union of townships. 3-4 Geo. V. c. 43, s. 28.

Seniority of
united town-
ships, how
determined.

29. The order of seniority of townships forming a union of townships shall be determined by the number of freeholders and tenants thereof whose names are entered on the last revised assessment roll, and the township having the largest number of them shall be the senior township, and the other or others the junior township or townships, and where there is no such assessment roll for all or any one or more of the townships their seniority shall be determined by the functionary or body by which the union is formed. 3-4 Geo. V. c. 43, s. 29.

[As to annexation of gores, etc., to Townships, see *Rev. Stat. c. 3, s. 14.*]

SEPARATION OF JUNIOR TOWNSHIP FROM UNION.

Junior township
containing 100 free-
holders, etc.,
may be
separated
from union.

30.—(1) When a junior township of a union of townships has 100 resident freeholders and tenants whose names are entered on the last revised assessment roll, the county council, if the union is not in unorganized territory, may separate the township from the union.

(2) If the junior township is in unorganized territory and has a population of not less than 100, the Municipal Board, upon the application of not less than 15 of the assessed freeholders and tenants therein, may separate the township from the union.

(3) If a junior township has 50, but less than 100 resident freeholders and tenants whose names are entered on the last revised assessment roll, and two-thirds of such resident freeholders and tenants petition the council of the county to separate the township from the union and the council considers the township to be so situated with reference to natural obstructions, that its inhabitants cannot conveniently remain united with the inhabitants of the other township or townships, the council may separate it from the union.

(4) Where a union of townships consisting of more than two townships is dissolved by the withdrawal of a junior township, the remaining townships shall constitute the union which shall be continued under its former name, omitting that of the junior township.

(5) Where a union of townships consisting of two townships only is dissolved, the inhabitants of each of the townships shall become a separate corporation bearing the name of the township. 3-4 Geo. V. c. 43, s. 30.

DATE WHEN NEW INCORPORATION TO TAKE EFFECT.

31.—(1) Where a new corporation is constituted under this Act, the incorporation shall take effect on the 31st day of December next after the proclamation, order of the Municipal Board or by-law by which it is effected, and except in the case of a town being erected into a city or a village into a town the functionary or body by which the new corporation is constituted shall fix the place for holding the first election, appoint a returning officer, and otherwise provide for the holding of the election according to law.

(2) The returning officer shall perform all the duties in connection with the election which in other cases are to be performed by the clerk of a local municipality, and shall act as clerk of the new municipality until a clerk is appointed and has taken the oath of office. 3-4 Geo. V. c. 43, s. 31.

As to registration of by-laws, etc., erecting a village, town or city, or enlarging, diminishing or altering the boundaries of a municipality, see The Registry Act, Rev. Stat. c. 124, s. 70.

MATTERS CONSEQUENT UPON THE FORMATION OF NEW CORPORATIONS.

32. The erection of a district into a village, of a village into a town, or of a town into a city, or the separation of a township from a union of townships shall not affect the by-laws then in force in the district or municipality but the same shall remain in force until repealed by the council of the newly erected municipality, but nothing herein shall

authorize the amendment or repeal of a by-law which the council by which it was passed could not lawfully amend or repeal. 3-4 Geo. V. c. 43, s. 32.

What by-laws to be in force in territory annexed to a municipality.

33. Where a district or a municipality is annexed to a municipality, its by-laws shall extend to such district or annexed municipality, and the by-laws in force therein shall cease to apply to it, except those relating to highways, which shall remain in force until repealed by the council of the municipality to which the district or municipality is annexed, and except by-laws conferring rights, privileges, franchises, immunities or exemptions which could not have been lawfully repealed by the council which passed them. 3-4 Geo. V. c. 43, s. 33.

ASSETS, DEBTS AND LIABILITIES.

Liability for debts of union.

34. Where a junior township is separated from a union of townships the senior or remaining township or townships shall be liable to the creditors of the union for all the debts and obligations of the union. 3-4 Geo. V. c. 43, s. 34.

Taxes for current year to belong to senior or remaining townships.

35. Where a junior township is separated from a union of townships all taxes imposed by the council of the union for the year in which the separation takes place shall be collected and paid over to the senior or remaining township or townships. 3-4 Geo. V. c. 43, s. 35.

Disposition of property upon dissolution of union.

36. After a junior township is separated from a union of townships the property of the union shall be disposed of as follows:

Real property.

(a) The real estate situate in the junior township shall become the property of that township;

(b) The real estate situate in the remaining township or townships shall be the property of the remaining township or townships;

Other assets.

(c) The two corporations shall be jointly interested in the other assets of the union, and the same shall be retained by the one, or shall be divided between them, or shall be otherwise disposed of, as they may agree;

Arrangement as to property and debts.

(d) The one shall pay or allow to the other, in respect of the disposition of the real and personal estate of the union, and in respect of its debts, such sum as may be just;

How to be determined in case of disagreement.

(e) If the councils of the two corporations do not, within three months after the first meeting of the council of the junior township, agree as to the disposition of the personal estate, or as to the sum to be paid by the one to the other, or as to

the time of payment thereof, the matters in dispute shall be determined by arbitration;

- (f) The amount so agreed upon or determined shall bear interest from the day on which the union was dissolved; and the same shall be provided for by the corporation which is to pay it, as in the case of other debts. 3-4 Geo. V. c. 43, s. 36.

Amount settled to bear interest.

37. Where one local municipality is annexed to another the corporation of the latter shall become and be liable to the creditors of the corporation of the former for its debts and obligations and all the property and assets of the corporation of the annexed municipality shall be vested in the corporation of the municipality to which it is annexed, and that corporation shall have the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the council of the annexed municipality including those for the year in which the annexation takes effect as if such taxes had been imposed by the council of the municipality to which it is annexed. 3-4 Geo. V. c. 43, s. 37.

Liability to creditors and right to collect taxes where one municipality annexed to another.

38.—(1) Where a district is erected into a village, or is detached from one and annexed to another local municipality, there shall be an adjustment of assets and liabilities between the corporation of the municipality from which the district becomes or is detached and the corporation of the village or of the municipality to which the district is annexed, as the case may be, and if the interest of the district in the assets of the corporation of the municipality from which it becomes or is detached exceeds its proportion of the liabilities thereof, that corporation shall pay to the corporation of the village or of the municipality to which the district is annexed, as the case may be, the amount of the excess; but if the district's proportion of such liabilities exceeds its interest in such assets the corporation of the village or of the municipality to which the district is annexed, as the case may be, shall pay to the corporation of the municipality from which the district becomes or is detached the amount of the excess.

Adjustment of assets and liabilities where village erected or district annexed to a municipality.

(2) If the corporations do not within three months after the separation takes effect agree as to such adjustment, the matter shall be determined by arbitration.

Arbitration.

(3) Where a district is detached as well from a county as from the local municipality, of which it forms part, there shall be a similar adjustment of the assets and liabilities of the corporation of the county from which the district is detached between that corporation and the corporation of the county to which the district is annexed, and the provisions of subsections 1 and 2 shall *mutatis mutandis* apply.

Where district becomes part of another county.

(4) If the corporation of the county, or of the local municipality, does not within three months after the separation takes effect notify the corporation of the other county or

When right to adjustment is barred.

local municipality that it requires an adjustment of the assets and liabilities, its right to claim an adjustment shall be barred.

Case of town erected into a city or a town or village annexed to city or separated town.

(5) Where a town not being a separated town is erected into a city, or a town or village is annexed to a city or separated town, there shall be a similar adjustment of the assets and liabilities of the corporation of the county from which the town or village is withdrawn between that corporation and the corporation of the city or separated town.

No allowance to city for interest in court house or gaol.

(6) Where a town is erected into a city the city shall not be entitled in the adjustment of assets and liabilities to any allowance in respect of its interest in the court house or gaol of the county. 3-4 Geo. V. c. 43, s. 38.

Ownership of real estate in district erected into village or annexed to a municipality.

39.—(1) Where a district is erected into a village or is detached from one local municipality and annexed to another, the real estate belonging to the corporation from which the district becomes or is detached and situate therein, shall belong to and be vested in the corporation of the village or of the municipality to which the district is annexed, as the case may be, but this shall not apply to a town hall and the land on which it is erected or which is used or enjoyed in connection with it, but the same shall remain the property of the corporation of the municipality from which the district becomes or is detached.

Collection of taxes.

(2) The taxes imposed by the council of the municipality from which the district becomes or is detached for the year in which it is detached shall belong to the corporation of that municipality and may be collected and recovered by it as if the district had not been detached but still remained part of the municipality. 3-4 Geo. V. c. 43, s. 39.

Powers to proceed with local improvements upon lands annexed to another municipality.

Rev. Stat. cc. 198, 193.

40.—(1) Where a work or service coming within the provisions of *The Municipal Drainage Act* or of *The Local Improvement Act* has been undertaken by a corporation, and after it has become liable for the carrying out of the same, any land liable to be specially assessed becomes a new municipality or is annexed to another municipality, the corporation of the municipality from which such land becomes or is detached may complete such work or service, and may enter upon and acquire any land lying within such new or other municipality necessary for the completion of such work or service; and may take all such proceedings, pass all such by-laws, make all such special and other assessments, impose all such special and other rates, issue and sell all such debentures, borrow all such money, and do all such other acts and things as are necessary to complete such work or service, and to provide for the cost thereof in the same manner as if the land so liable had not become a new municipality or been annexed to another municipality.

(2) The corporation by which the work or service was undertaken shall be indemnified by the corporation of the municipality which is constituted from such land or to which such land is annexed against all debts and liabilities incurred by it before the formation of the new corporation or the annexation of such land for or in respect of any such work or service to the extent to which the land lying within such new or other municipality was specially assessed; and in adjusting the assets and liabilities consequent on the detachment of such land the debts incurred by the corporation of the municipality from which it was detached, for its share of the cost of such work or service, shall be taken into account.

Municipality to which territory annexed to indemnify municipality undertaking work.

(3) Where the land specially assessed lies wholly within such new or other municipality, the corporation thereof shall be liable for the entire debt in respect of such work or service, and the clerk of the municipality from which the land was detached shall furnish the clerk of such new or other municipality with certified copies of all the by-laws relating to such work or service and the rates imposed by such by-laws shall be collected by the corporation of the new or other municipality, and that corporation shall pay the principal and interest of the debentures issued in respect of such work or service as they become due and shall indemnify the corporation of the municipality from which the land was detached against the same.

Assumption of debt where all of land specially assessed is detached.

(4) Where part only of the land specially assessed lies within the new or other municipality the clerk of the municipality from which it was detached shall furnish the clerk of such new or other municipality with a certified copy of the by-law imposing the special assessment, and the corporation of such new or other municipality in each year in which a special rate upon such land is payable shall collect the same and shall pay over the sums collected to the treasurer of the municipality from which such land was detached, when and as the same are collected, and in the adjustment of the assets and liabilities consequent upon the detachment of such land the debts incurred by the corporation of the municipality from which it was detached for its share of the cost of such work or service shall be taken into account. 3-4 Geo. V. c. 43, s. 40.

Collection of special rates, etc., where part only of land specially assessed is detached.

41. Where the land detached is subject to rates for the payment of a bonus or aid granted by a part of a township in aid of a railway, the provisions of section 40 shall, *mutatis mutandis*, apply. 3-4 Geo. V. c. 43, s. 41.

Rates for payment of bonus to railways by part of township.

42. Where a district is erected into a village, or a village into a town, or a town into a city, or a township is separated from a union of townships, the council having authority in the district or municipality at the time of the erection or separation shall, until the council of the new corporation is organized, continue to have the same powers as before such erection or separation. 3-4 Geo. V. c. 43, s. 42.

Jurisdiction of old Council on formation of new corporation.

Officials and Sureties.

Effect of
separation
upon public
officers
and their
sureties.

43.—(1) The separation of a junior township from a union of townships shall not affect the office, duty, power or responsibility of any officer of the union who continues to be an officer of the remaining township or townships after such separation, or of the sureties of such officer or their liability, further than by limiting such office, duty, power, responsibility, suretyship and liability to the remaining township or townships.

Further pro-
visions as
to officers.

(2) Every such officer shall, after the separation, be the officer of the remaining township or townships as if he had been originally appointed an officer thereof.

Liability
of sureties
for public
officers.

(3) The sureties for such officer shall remain liable, as if they had become his sureties in respect only of the remaining township or townships, and all securities shall, after the separation, be read as if they had been given only to or for the benefit of the remaining township or townships. 3-4 Geo. V. c. 43. s. 43.

New Division into Wards.

New division
of wards in
cities and
owns.

44. Where the council of a city or town, before the 15th day of July in any year, by a vote of two-thirds of all the members, passes a resolution affirming the expediency of a new division into wards of the city or town or of a part of it, the Lieutenant-Governor in Council may by proclamation re-divide the city or town or part of it into wards, as he may deem expedient. 3-4 Geo. V. c. 43, s. 44.

PART II.

MUNICIPAL COUNCILS—HOW COMPOSED.

Counties.

County
Councils,
how
composed.

45. The council of a county shall be composed of the reeves and deputy reeves of the towns, not being separated towns, and of the villages and townships in the county. 3-4 Geo. V. c. 43, s. 45.

Cities.

Councils of
cities, how
composed.

46.—(1) Subject to subsection 7 the council of a city shall be composed of a mayor, the members of the Board of Control, if the city has such a board, and

(a) Three aldermen for each ward, or

(b) Where the council by by-law so provides two aldermen for each ward;

(c) In the case of a city having a population of not more than 15,000, where the council by by-law so provides, one alderman for every 1,000 of the population.

(2) In the case provided for by clause (c) of subsection 1, or where the council of a city having a population of more than 15,000 by by-law so provides, the aldermen shall be elected by general vote, and in the latter case the number of aldermen shall be the same as if they were elected by wards. By-law for election by general vote.

(3) A by-law for the purposes mentioned in clause (b) or (c) of subsection 1 shall not be repealed until at least two annual elections have been held under it, and a by-law under subsection 2 shall not be repealed until at least five annual elections have been held under it. Repeal of by-law

(4) A by-law for any of the purposes mentioned in subsections 1 and 2 and a by-law repealing any such by-law shall be passed not later in the year than the first day of November and shall not be passed unless it has received the assent of the municipal electors. When and how by-law to be passed.

(5) Every such by-law including a repealing by-law shall take effect at and for the purposes of the annual election next after the passing of it. When by-law to take effect.

(6) Subject to subsection 3 where the petition of at least one-fifth of the municipal electors is presented on or before the first day of November in any year praying for the passing of a by-law repealing a by-law for the purpose mentioned in clause (c) of subsection 1, or where a petition of not less than 400 electors is presented praying for the passing of a by-law for the purpose mentioned in subsection 2, or for the repeal of a by-law passed under that subsection, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing annual election, and if the voting is in favour of the change shall without delay pass a by-law in accordance with the prayer of the petition. Submission of by-law on petition of electors.

(7) Notwithstanding anything in any special Act the council of the City of Toronto shall consist of the mayor and four controllers to be elected by general vote, and three aldermen for each of the Wards, Numbers 1 to 6 inclusive, and two aldermen for Ward Number 7 until its population, according to the municipal enumeration by the assessor, reaches 30,000, and after that three aldermen for that Ward. 3-4 Geo. V. c. 43, s. 46. Council of City of Toronto.

Towns.

47.—(1) The council of a town in unorganized territory shall be composed of a mayor and six councillors to be elected by general vote. Councils of towns in unorganized territory.

Councils of towns over 5,000.

(2) If the town has a population of not less than 5,000 the council may provide that the council shall be composed of a mayor and nine councillors to be elected by general vote. 3-4 Geo. V. c. 43, s. 47.

Councils of towns in counties.

48.—(1) The council of a town not in unorganized territory having a population of more than 5,000 shall be composed of a mayor, a reeve, as many deputy reeves as the town is entitled to and three councillors for each ward where there are less than five wards, or two councillors for each ward where there are five or more wards.

By-laws for changing composition of council.

(2) Where there are less than five wards the council on the petition of not less than 100 municipal electors shall provide that the number of councillors shall be two for each ward, or may without petition provide that the number of councillors shall be one for every 1,000 of the population to be elected by general vote, or if the population is less than 6,000 that the number of councillors shall be six to be elected by general vote.

Case of town of not more than 5,000.

(3) Where the town has a population of not more than 5,000 the council shall be composed of a mayor, a reeve, as many deputy reeves as the town is entitled to and

(a) Six councillors to be elected by general vote; or

(b) Where the council so provides one councillor for each ward and the remaining councillors to complete the full number of six to be elected by general vote.

Repeal of by-laws.

(4) A by-law for any of the purposes mentioned in subsection 2 of section 47 or subsection 2 or clause (b) of subsection 3 of this section shall not be repealed until two annual elections have been held under it, and a by-law for the purpose mentioned in clause (b) of subsection 3 shall not be passed until two annual elections under clause (a) have been held.

Assent of electors required.

(5) A by-law for any of the purposes mentioned in subsection 2 of section 47 or in subsections 2 and 3 of this section, and a by-law repealing any such by-law shall be passed not later in the year than the first day of November and shall not be passed unless it has received the assent of the municipal electors.

When by-law to take effect.

(6) Every such by-law, including a repealing by-law, shall take effect at and for the purposes of the annual election next after the passing of it.

Submission of questions on petition of electors.

(7) Subject to subsections 2 and 4, where a petition of not less than one-fifth of the municipal electors is presented on or before the first day of November in any year praying for the passing of a by-law for any of the purposes mentioned in this section or for repealing any such by-law, except a by-law reducing the number of councillors to two for each

ward, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing annual election and if the voting is in favour of the proposed change shall without delay pass a by-law in accordance with the prayer of the petition.

(8) Subject to subsection 4, where a by-law has been passed for reducing the number of councillors to two for each ward, the council, upon the petition of not less than 100 resident municipal electors, presented not later in the year than the first day of November, shall submit the question of repealing the by-law to a vote of the electors at the next ensuing annual election and if the voting is in favour of the repeal shall without delay pass a by-law in accordance with the prayer of the petition. 3-4 Geo. V. c. 43, s. 48.

Submission of question of repeal.

49. For the purposes of sections 46 to 48 the population shall be determined by the latest census of Canada. 3-4 Geo. V. c. 43, s. 49.

Population, how determined.

Villages and Townships.

50.—(1) The council of a village and the council of a township shall consist of a reeve, as many deputy reeves as the municipality is entitled to, and a sufficient number of councillors to make up with the deputy reeves four in all, and they shall all be elected by general vote.

Councils of villages and townships.

(2) The council of a township in unorganized territory shall consist of a reeve and four councillors. 3-4 Geo. V. c. 43, s. 50.

Towns, Villages and Townships.

51.—(1) A town, not being a separated town, and a village and a township in a county shall each be entitled where it has more than 1,000 and not more than 2,000 municipal electors to a first deputy reeve, or where it has more than 2,000 and not more than 3,000 municipal electors to a first deputy reeve and a second deputy reeve, and where it has more than 3,000 municipal electors to a first deputy reeve, a second deputy reeve and a third deputy reeve.

Deputy reeves in towns, villages, and townships.

(2) The number of municipal electors shall be determined by the last revised voters' list, but in counting the names the name of the same person shall not be counted more than once. 3-4 Geo. V. c. 43, s. 51.

Number of electors, how determined.

QUALIFICATION.

52.—(1) Subject to subsection 6, no person shall be qualified to be elected a member of the council of a local municipality unless he

Qualification of members of councils.

(a) Resides in or within two miles of the municipality;

- (b) Is a British subject;
 - (c) Is a male of the full age of twenty-one years;
 - (d) Is not disqualified under this or any other Act, and
 - (e) In any municipality is at the time of the election in actual occupation of a freehold estate rated in his own name or in the name of his wife on the last revised assessment roll of the municipality for at least \$2,000, whether or not the same is encumbered, and of which he or she is the owner; or
 - (f) Is or his wife is at the time of the election the owner or tenant of a freehold or leasehold or partly freehold and partly leasehold estate, legal or equitable, or partly legal and partly equitable, in land assessed in his or her name on the last revised assessment roll of the municipality, if not in unorganized territory, of at least the value according to such assessment roll over and above, in the case of an owner, all liens, charges and encumbrances thereon, of
 - i. In a village, if freehold, \$200; or if leasehold, \$400;
 - ii. In a township, if freehold, \$400; or if leasehold, \$800;
 - iii. In a town, if freehold, \$600; or if leasehold, \$1,200;
 - iv. In a city, if freehold, \$1,000; or if leasehold, \$2,000;
- Or if in unorganized territory,
- v. In a township, (except at the first election), if freehold, \$100; or if leasehold, \$200;
 - vi. In a city or town, if freehold, \$400; and if leasehold, \$800.

When
alienation of
assessed
estate not to
disqualify.

(2) A person who would have had the qualification prescribed by subsection 1, if he or his wife had continued to be the owner or tenant of land in respect of which his or her name was entered on the last revised assessment roll down to and at the time of the election, if otherwise qualified, shall be qualified to be elected, notwithstanding that he or his wife has alienated the estate in the land for which he or she was assessed, or, if a leasehold estate, it has been determined by effluxion of time, surrender or otherwise between the date of the return of the assessment roll and the time of the election, if at the time of the election he is a resident of the municipality and he or his wife has at the time of the election an estate in other land of a sufficient assessed value, according

to the last revised assessment roll, to qualify him for election under subsection 1 if he or she had been assessed for it.

(3) Subsections 4 and 5 of section 56 shall apply to the rating qualifications prescribed by this section.

(4) Where territory has been annexed to an urban municipality, until an assessment roll for the municipality, including such territory, has been made and revised, it shall be sufficient for the purposes of this section if the assessment is upon the last revised assessment roll of the municipality in which the territory, before its annexation, was situate, and for a sufficient amount to qualify him for election to the council of that municipality.

(5) In this section "leasehold" and "leasehold estate" shall mean a tenancy for one year or more, or a tenancy from year to year.

(6) Where the inhabitants of a township or locality in unorganized territory have become incorporated as a township or a union of townships, the only qualification necessary at the first election shall be that the person is a male of the full age of twenty-one years, a British subject and a householder resident in the municipality.

(7) If there are not at least two persons qualified to be elected for each seat in the council, no qualification beyond that of a municipal elector shall be necessary. 3-4 Geo. V. c. 43, s. 52.

DISQUALIFICATION.

53.—(1) The following shall not be eligible to be elected a member of a council or be entitled to sit or vote therein:

- (a) A judge of any court;
- (b) A gaoler or a keeper of a lock-up;
- (c) A sheriff, deputy sheriff or sheriff's bailiff;
- (d) A high bailiff or chief constable of a city or town;
- (e) An assessment commissioner, assessor, a collector of taxes, a treasurer, a clerk, or any other officer, employee or servant of the corporation of a municipality;
- (f) A clerk or bailiff of a division court;
- (g) A crown attorney or a clerk of the peace;
- (h) A registrar or a deputy registrar of deeds;
- (i) A master or a local master of titles;
- (j) A member of a public or separate school board or of a board of education, of a city, town or village, or a member of a high school board, unless he

Persons disqualified from being members of a Council.

has at least ten days before the day of nomination filed his resignation with the Secretary of the Board;

- (k) A person licensed to sell spirituous liquor by retail;
- (l) A license commissioner or an inspector of licenses;
- (m) A police magistrate;
- (n) A clerk of a county or district court;
- (o) A deputy clerk of the Crown or a local registrar;
- (p) A person having himself or by or with or through another an interest in any contract with the corporation or with any commission or person acting for the corporation or in any contract for the supply of goods or materials to a contractor for work for which the corporation pays or is liable directly or indirectly to pay, or which is subject to the control or supervision of the council or of an officer of the corporation, or who has an unsatisfied claim for such goods or materials;
- (q) A person who either himself or by or with or through another has any claim, action or proceeding against the corporation;
- (r) A person who, either himself or by or with or through another is counsel or solicitor in the prosecution of any claim, action or proceeding against the corporation or in opposing or defending any claim, action or proceeding by the corporation;
- (s) A person who at the time of the election is liable for any arrears of taxes to the corporation of the municipality;
- (t) A person against the land in respect of which he qualifies there are at the time of the election any arrears of taxes.

(2) Subsection 1 shall not apply to a person by reason only:

- (a) Of his being a shareholder in an incorporated company having dealings or a contract with the corporation, or
- (b) Of his being a lessee of the corporation for a term of twenty-one years or upwards of any period of the corporation, or
- (c) That part of his property is exempt wholly or part from taxation, whether such exemption founded on an agreement with the corporation or on a by-law of the council, or

Shareholders in incorporated companies having dealings with corporation, lessees of corporation, and newspaper proprietors not disqualified.

- (d) Of his being the proprietor of or otherwise interested in a newspaper or other periodical publication in which official advertisements or notices which appear in other newspapers or periodical publications are published by the council or for which the council is a subscriber or which is furnished to any department or officer of a corporation if the same are paid for at the usual rates, and he has not agreed with the corporation to do the whole or the principal part of its printing.
- (e) Of his having been appointed and paid for his services as commissioner, superintendent or overseer of any highway or of any work undertaken wholly or in part at the expense of the corporation.
- (f) Of his being a consumer or taker of anything supplied by the corporation or any commission under *The Public Utilities Act* or of his having entered into a contract with the corporation or commission for the supply of it to him.

(3) A person being such a shareholder shall not vote on any question affecting the company or being such a lessee shall not vote on any question affecting his lease or his rights or liabilities thereunder, or being so exempt from taxation shall not vote on any question affecting the property so exempt, or being such a proprietor of or otherwise interested in a newspaper or other periodical publication shall not vote on any question affecting his dealings with the corporation.

(4) The filing of the resignation mentioned in clause (j) of subsection 1 shall render vacant the seat of the member.

54. If a member of a council in his own name or in that of another and alone or jointly with another enters into a contract with or makes a purchase from or a sale to the corporation, the contract, purchase or sale as against the corporation shall be void.

EXEMPTIONS.

55. The following shall be exempt from being elected as members of a council and from being appointed to any municipal office:

- (a) Persons of the age of sixty years and upwards;
- (b) Members and officers of the Senate, or of the House of Commons of Canada, or of the Assembly;
- (c) Coroners;
- (d) Clergymen and ministers of every denomination;

- (e) Members of the Law Society of Upper Canada, whether barristers or students;
- (f) Officers of Courts of Justice;
- (g) Physicians and surgeons;
- (h) Professors, masters and teachers, and the officers and servants of a university, college or school in Ontario;
- (i) Millers;
- (j) Officers and members of a fire brigade or of an authorized fire company. 3-4 Geo. V. c. 43, s. 55.

PART III.

MUNICIPAL ELECTIONS.

Who to be entered on Voters' List.

Qualifica-
tion to be
entered on
voters' list.
Rev. Stat.
c. 6.

56.—(1) Every person shall be entitled to be entered on the voters' list prepared under Part I. or II. of *The Ontario Voters' Lists Act*, who is:

- (a) A male, a widow or an unmarried woman;
- (b) Of the full age of twenty-one years;
- (c) A British subject by birth or naturalization;
- (d) Not disqualified under this Act or otherwise by law prohibited from voting; and
- (e) Rated, or entitled to be rated, or in the case of a male whose wife is or was entitled to be rated to the amount hereinafter mentioned on the last revised assessment roll of the local municipality for land held in his or her own right, or so rated or entitled to be so rated for income, or who is entered or was entitled to be entered on such roll as a farmer's son.

Amount of
rating neces-
sary.

(2) The rating for land shall be in respect of a freehold or leasehold, legal or equitable or partly of each to an amount not less than

- (a) In villages and townships, \$100;
- (b) In towns having a population not exceeding 3,000, \$200;
- (c) In towns having a population exceeding 3,000, \$300;
- (d) In cities, \$400.

(3) The rating for income shall be in respect of income Income. from a trade, office, calling or profession of not less than \$400 which has been received during the twelve months next preceding the final revision of the assessment roll or the twelve months next preceding the last day for making complaint to the Judge under *The Ontario Voters' Lists Act*. Rev. Stat. c. 6.

(4) If both the owner and the occupant are severally but not jointly rated, each shall be deemed to be rated. Where owner and occupant severally rated.

(5) Where land is owned or occupied jointly by two or more persons who are rated at an amount sufficient, if equally divided between them, to give a qualification to all each shall be deemed to be rated within the meaning of this section, otherwise none of them shall be deemed to be so rated. Where land owned or occupied jointly.

(6) A person not entitled under *The Assessment Act* to be entered on the last revised assessment roll as a farmer's son, shall be entitled to be entered on the voters' list if he has the other qualifications of a farmer's son as prescribed by that Act and has resided on the farm of his father or mother for the twelve months next preceding the date of the final revision of the assessment roll or for the twelve months next preceding the last day for making complaint to the judge under *The Ontario Voters' Lists Act*. Farmers' sons. Rev. Stat. c. 195.

(7) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months shall not disentitle a farmer's son to be entered on the voters' list. 3-4 Geo. V. c. 43, s. 56. Occasional or temporary absence. Rev. Stat. c. 6.

Right to Vote.

57. Subject to sections 59, 60 and 61, every person whose name is entered on the proper voters' list shall be entitled to vote at a municipal election except that in the case of a tenant he shall not be entitled to vote unless he is a resident of the municipality at the date of and has resided therein for one month next before the election and, in the case of an income voter and of a farmer's son, he is a resident of the municipality at the date of the election. 3-4 Geo. V. c. 43, s. 57. Right to vote.

58. Except as to the disqualification arising from his not residing in the municipality at the time of the election in the case of an income or farmer's son voter or from his not residing in the municipality for one month next before the election and at the time of the election in the case of a tenant, or from the non-payment of taxes in the case of a voter whose name appears on the defaulters' list, no question as to the qualification of any person whose name is entered on the proper list of voters shall be raised at an election. 3-4 Geo. V. c. 43, s. 58. No question of qualification to be raised at election. Exception.

Persons in default for non-payment of taxes not to vote.

59.—(1) No person whose name appears on the defaulters' list provided for by section 95 shall be entitled to vote in respect of income in any municipality, or in respect of real property in a municipality the council of which has passed a by-law under paragraph 9 of section 399, unless at the time of tendering his vote he produces and leaves with the deputy returning officer a certificate from the treasurer, or the collector, showing that the taxes, in respect of which the default was made, have since been paid.

Certificate to be filed.

(2) The deputy-returning officer shall file the certificate and note the same on the defaulters' list. 3-4 Geo. V. c. 43, s. 59.

Clerk may give a casting vote only.

60. The Clerk of the municipality shall not be entitled to vote except to give a casting vote as provided by section 127. 3-4 Geo. V. c. 43, s. 60.

Persons employed by candidates for reward not to vote.

61.—(1) No person shall be entitled to vote who, at any time, before or during the election, has been employed as counsel, agent, solicitor or clerk or in any other capacity by a candidate or by any other person at or in reference to or for the purpose of forwarding the election, and who has received or expects to receive, either before, during or after the election, from any candidate or from any other person, for acting in such capacity, any money, fee, office, place or employment, or any promise, pledge or security therefor.

Exceptions.

(2) Subsection 1 shall not apply to a person who performs any official duty in connection with the election and who receives the fees therefor to which he is entitled. 3-4 Geo. V. c. 43, s. 61.

Where territory added to city, town or village, or a new city, town or village erected with added territory, and no voters' lists including such territory.

62. Where territory has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory erected into a town, or a new town or village erected, and an election takes place before a voters' list including the names of the persons entitled to vote in such territory, or for the new town or village, is certified by the Judge, all persons who would have been qualified as municipal electors if such addition had not been made or the new town or village erected shall be entitled to vote in the city, town or village at such election. 3-4 Geo. V. c. 43, s. 62.

NOMINATION MEETING.

Meeting for nomination of mayor, reeve, deputy-reeves, etc.

63. Subject to subsection 4 of section 64 and to section 73 a meeting of the electors shall take place for the nomination of candidates for mayor and controllers in cities and towns, and for reeve or reeve and deputy reeve or deputy reeves in towns, at the hall of the municipality annually on the last Monday in December, at ten o'clock in the forenoon. 3-4 Geo. V. c. 43, s. 63.

64.—(1) Subject to subsections 3 to 6, and to section 73, a meeting of the electors shall take place for the nomination of candidates for aldermen in cities and councillors in towns, to be elected by general vote, and for reeves, deputy reeves and councillors in villages and townships, annually at noon, on the last Monday in December, at the hall of the municipality, or at such place therein as may from time to time be fixed by by-law.

Meetings in cities, towns, etc., for nomination of aldermen, etc

(2) Where the election of aldermen or councillors is by wards the meeting shall be held annually at noon on the last Monday in December at such places in each ward as may from time to time be fixed by by-law, but the council of a town divided into wards may provide that the meeting for the nomination of candidates for councillors for the wards shall be held at the same time and place as the nomination for mayor.

Place of nomination.

Nomination of councillors in towns.

(3) The council of a city may by the by-law fixing the places for the nomination of candidates for aldermen provide that the hour of nomination shall be half-past seven o'clock in the afternoon.

Hour for holding nominations in cities.

(4) The council of a town or village may by by-law provide that the meeting for the nomination of all candidates may be held at half-past seven o'clock in the afternoon.

In towns and villages.

(5) The council of a township may by by-law provide that the meeting for the nomination of all candidates shall be held at one o'clock in the afternoon.

In townships.

(6) Where a township adjoins an urban municipality, that municipality may be designated as the place of meeting for the nomination of all candidates. 3-4 Geo. V. c. 43, s. 64.

Where township adjoins urban municipality.

65. The nomination meeting shall be held on the day fixed for it by or under the authority of this Act, except where it is Christmas Day, and in that case the meeting shall be held on the preceding Friday. 3-4 Geo. V. c. 43, s. 65.

If nomination day falls on Christmas.

66. Where the incorporation of a new municipality takes effect on the 31st day of December as provided by section 31, the nomination and all proceedings incidental thereto and to the holding of the election on the 1st Monday of the January following may be had and taken as if the incorporation had taken effect. 3-4 Geo. V. c. 43, s. 66.

Nomination and polling in new municipality.

67. The returning officer shall give at least six days' notice of the nomination meeting. 3-4 Geo. V. c. 43, s. 67.

Notice of nomination meeting.

68.—(1) At all nomination meetings, the candidates for each office shall be proposed and seconded *seriatim*, and every nomination shall be in writing, shall state the name, residence and occupation of the candidate, and shall be signed by his proposer and seconder, both of whom shall be present.

Nomination and proceedings incidental thereto.

and filed with the returning officer within one hour from the time fixed for holding the meeting.

Non-compliance,
effect of.

(2) Failure to comply with the provisions of subsection 1 shall not invalidate the nomination if it is received and acted on by the returning officer without objection.

Where only
one candi-
date nomin-
ated for an
office.

(3) If no more candidates are nominated for an office than are to be elected, the returning officer, after the lapse of one hour from the time fixed for holding the meeting, shall declare such candidate duly elected.

In what
cases poll
to be held.

(4) If more candidates are nominated for an office than are to be elected, the returning officer shall adjourn the proceedings until the first Monday in January next thereafter, when, unless there is an election by reason of the resignation of any candidate or candidates nominated, as in the next succeeding section provided, polls shall be opened in each ward or polling subdivision at such place or places as have been fixed by by-law. 3-4 Geo. V. c. 43, s. 68.

Names of
candidates
to be posted
up.

69.—(1) The returning officer shall, on the day of the nomination, post up in the office of the clerk the names of the persons nominated for the respective offices.

Resignation
of person
nominated.

(2) At the nomination meeting or at any time before nine o'clock in the afternoon of the following day, or, if that day is a holiday, before noon of the succeeding day, any person nominated for one or more offices may resign, or may elect for which office he is to remain nominated; and in default he shall be deemed to be nominated for the office for which he was first nominated.

When
resigna-
tions to be
in writing.

(3) Where he resigns after the nomination meeting the resignation shall be in writing, signed by him and attested by a witness, and shall be delivered to the clerk within the time hereinbefore mentioned.

Candidates
to file
declaration
of qualifica-
tion.

(4) In an urban municipality every candidate for any municipal office shall on nomination day, or before nine o'clock in the afternoon of the following day, or if that day is a holiday before noon of the succeeding day, file in the office of the clerk a declaration, Form 2.

When
declaration
may be
made by
some one
for candi-
date.

(5) Where a candidate is unable on account of illness or absence from the municipality to make the declaration or to file it within the time prescribed by subsection 4, and he appears by the last revised assessment roll to be qualified to be elected, the declaration of any person who has and states in the declaration that he has knowledge of the facts, that the inability exists and the nature of it and that he has reason to believe and does believe that the candidate possesses the qualification prescribed for the office for which he has been nominated and that if elected he will accept the office, may be filed in lieu of the declaration of the candidate.

(6) If one or other of such declarations is not filed within the time mentioned in subsection 4, the candidate in default shall be deemed to have resigned, and his name shall be removed from the list of candidates and shall not be printed on the ballot paper. Effect of failure to make declaration.

(7) If by reason of resignations the number of candidates remaining for any office does not exceed the number to be elected the returning officer, whether the event happens on or after nomination day, shall declare the remaining candidate or candidates duly elected. Election by acclamation when other candidates retire.

(8) On the day following the nomination day, the returning officer for each ward shall certify to the clerk the result of the meeting. 3-4 Geo. V. c. 43, s. 69. Result of nomination meeting.

70.—(1) Where the candidates, or any of them, retire, and by reason of such retirement or where from any other cause the requisite number of persons is not elected, the members elected, if they equal or exceed one-half of the council when complete, or a majority of such members, shall order a new election to be held to fill the vacancies. Non-election of full council by reason of retirement of candidates.

(2) Where less than half the members of the council are elected the clerk shall cause a new election to be held; and until such election is held, and the council is elected, the council of the preceding year shall continue in office. Retirement by a majority of council.

(3) The new election shall be held as soon as practicable. 3-4 Geo. V. c. 43, s. 70. New election, when to be held.

71. Except in the case of the first election provided for by sections 24 and 27 and subject to section 73 the electors of every local municipality shall elect annually on the first Monday in January, although it is a holiday, the members of council, the water commissioners, and the sewerage commissioners who are to be elected, except such as have been elected at the nomination. 3-4 Geo. V. c. 43, s. 71. Elections to be held annually.

72. The members of a council shall hold office until their successors are elected and the new council is organized. 3-4 Geo. V. c. 43, s. 72 (1). Term of office of members, etc.

73. The council of a city having a population of not less than 75,000 may, by by-law passed not later in the year than the 15th day of November, provide that the meeting of electors for the nomination of candidates for Mayor, Controllers, Aldermen and the Board of Education shall be held on the 23rd day of December, except where that day is a Sunday, and in that case on the following day, and that the polling shall take place on the 1st day of January next thereafter, except where that day is a Sunday, and in that case on the following day, and the by-law shall remain in force from year to year until repealed. 3-4 Geo. V. c. 43, s. 73. By-laws for holding nominations on 23rd December and elections on New Year's Day, in certain cities.

Two years' term for councils may be adopted.

74. The council of a local municipality may by by-law passed with the assent of the municipal electors extend the term of office of the members of the council to be thereafter elected to two years, and may with the like assent repeal such by-law. 3-4 Geo. V. c. 43, s. 74.

Election to be held in municipality.

75. Subject to subsection 6 of section 64 the election shall be held in the municipality. 3-4 Geo. V. c. 43, s. 75.

Election not to be held in tavern.

76. An election shall not be held in a tavern or in a house of public entertainment licensed to sell spirituous or fermented liquors. 3-4 Geo. V. c. 43, s. 76.

Appointment of places for nomination and polling, deputy-returning officers, etc.

77.—(1) The council of every local municipality in which the election is by wards or polling subdivisions, shall from time to time appoint:

- (a) the places for holding the nominations for each ward;
- (b) a returning officer to hold the nominations for each ward;
- (c) the places at which polls shall be opened if a poll is required;
- (d) a deputy returning officer and a poll clerk for each polling subdivision.

Election officers how appointed in cities over 100,000.

(2) In a city having a population of not less than 100,000 the returning officers, deputy returning officers, and poll clerks shall be appointed on the recommendation of the clerk, and such appointments shall be made at least one month before polling day, and as far as practicable the deputy returning officers and poll clerks shall be appointed for polling places in the subdivisions in which they reside.

Poll clerk refusing to act, etc.

(3) If a poll clerk signifies to the returning officer in writing that he will not act, the returning officer shall appoint another person to act in his place.

Appointment of poll clerk by D.R.O.

(4) If a poll clerk does not attend at the opening of the poll the deputy returning officer shall appoint another person to act in his place.

Clerk to be returning officer for whole municipality.

(5) The clerk shall be the returning officer for the whole municipality; and if a poll is required, the deputy-returning officers shall make to him the returns for their respective wards or polling subdivisions. 3-4 Geo. V. c. 43, s. 77.

Returning and deputy officer where election not by polling subdivisions.
Polling place.

78.—(1) In a local municipality which is not divided into polling subdivisions, the clerk shall be the returning officer for the nomination of candidates.

(2) The council shall from time to time appoint the place at which the poll shall be opened if a poll is required. 3-4 Geo. V. c. 43, s. 78.

79.—(1) Where a by-law to appoint the place for holding any meeting required to be held for the nomination of candidates is necessary and the council fails to pass it the meeting shall be held at the place at which the nomination for the next preceding election was held. Place for nomination and polling where Council fails to fix places.

(2) Where the council fails to appoint all or any of the places at which a poll is to be opened if a poll is required, as to such of them as are not appointed, the polls shall be opened at the place or places at which the polling took place at the next preceding election. 3-4 Geo. V. c. 43, s. 79.

80.—(1) Where the returning officer for any ward notifies the clerk that he is unable or that he refuses to act or does not attend at the time and place appointed by the clerk to receive his instructions and nomination papers, or where a deputy returning officer does not attend at the time and place at which he is required by the clerk to attend to receive his ballot box, voters' lists, and other election papers, the clerk shall appoint another person to act in his place. Refusal or neglect of returning officer or deputy returning officer to perform his duties.

(2) If at the time and place appointed for holding a nomination the returning officer does not attend to hold the nomination within fifteen minutes after the time appointed or if no returning officer has been appointed, the electors present at the place for holding the nomination may choose from amongst themselves a returning officer to hold the nomination. When electors may choose returning officer.

(3) If at the time and place appointed for holding the poll the deputy returning officer does not attend within one hour after the time appointed, the clerk shall appoint another person to act in his place and shall furnish him with a ballot box, voters' lists and other election papers. Case of deputy returning officer not attending at poll.

(4) In a city having a population of not less than 100,000 a deputy returning officer shall not be appointed unless a poll clerk has not been appointed or if appointed is not present, but the poll clerk shall act as deputy returning officer and he shall appoint some other person to be poll clerk. When electors not to choose deputy.

(5) If, during the polling, the returning officer or the deputy returning officer at a polling place becomes unable, through illness or other cause, to perform his duties, the poll clerk shall act in his place and shall perform all the duties of a returning officer or deputy returning officer, and may appoint some other person to act as poll clerk. 3-4 Geo. V. c. 43, s. 80. Where returning officer or deputy is unable to perform his duties.

81.—(1) A returning officer and a deputy returning officer from the time he takes the oath of office until the day after the close of the election or of the voting on a by-law shall be a conservator of the peace and shall have all the powers of a Justice of the Peace. Returning officers and deputy returning officers to be conservators of the peace.

Arrest of
person
disturbing
peace.

(2) A returning officer, a deputy returning officer or a Justice of the Peace may arrest or by a verbal order cause to be arrested and placed in the custody of a constable or of any other person a person who disturbs the peace and good order and may cause such person to be imprisoned under an order signed by him until an hour not later than the closing of the nomination, polling or voting as the case may be, and all constables and persons present when required shall assist the returning officer, deputy returning officer or Justice of the Peace in the performance of his duties under this subsection. 3-4 Geo. V. c. 43, s. 81.

Special con-
stables may
be sworn in.

82. A returning officer, a deputy returning officer, or a Justice of the Peace may appoint and swear in as many special constables to assist in the preservation of the peace and order as he may deem necessary; and any person liable to serve as constable, and required by a returning officer, a deputy returning officer, or a justice, to be sworn in as a special constable, if he refuses to be sworn in or to serve, shall incur a penalty of \$20. 3-4 Geo. V. c. 43, s. 82.

Ballot Boxes.

Ballot boxes
to be fur-
nished.

83.—(1) Where a poll is required, the clerk shall procure as many ballot boxes as there are polling subdivisions.

How made.

(2) The ballot boxes shall be made of durable material, provided with lock and key, and so constructed that the ballot papers can be deposited therein and cannot be withdrawn without unlocking the box.

Delivery of
to deputy-
returning
officers.
Clerk to
preserve
boxes for
future
elections.

(3) Two days at least before polling day the clerk shall deliver a ballot box to every deputy returning officer.

(4) The ballot boxes, when returned to the clerk after the election, shall be preserved by him for use at future elections; and he shall have ready for use, at all times, as many ballot boxes as there are polling subdivisions.

Penalty for
failure to
furnish
boxes.

(5) If the clerk fails to provide the ballot boxes he shall incur a penalty of \$100 in respect of every ballot box which he fails to provide.

Deputy
returning
officers to
procure
boxes when
not supplied.

(6) A deputy returning officer who has not been provided with a ballot box within the time prescribed shall forthwith procure one to be made, and he may make a requisition upon the treasurer for payment of the cost of it, and the treasurer shall pay the same to the deputy returning officer. 3-4 Geo. V. c. 43, s. 83.

Ballot Papers.

Ballot
papers to be
printed.

84. Where a poll is required, the clerk shall forthwith cause to be printed a sufficient number of ballot papers for the purposes of the election. 3-4 Geo. V. c. 43, s. 84.

85.—(1) In cities and towns in which the aldermen or councillors are elected by wards, there shall be prepared one set of ballot papers for all the polling subdivisions containing the names of the candidates for mayor, another set for all the polling subdivisions containing the names of the candidates for reeve or reeve and deputy reeves, and another set for each ward containing the names of the candidates for aldermen or councillors for the ward.

Ballot papers where election is by wards.

(2) In cities and towns where the aldermen or councillors are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballot papers containing the names of the candidates for mayor or mayor and reeve or mayor, reeve and deputy reeves, and another set containing the names of the candidates for aldermen or councillors.

Ballot papers where aldermen or councillors elected by general vote.

(3) In villages and townships there shall be prepared one set of ballot papers containing the names of the candidates for reeve or reeve and deputy reeves and for councillors.

Ballot papers for townships and villages.

(4) There shall also be separate sets of ballot papers for controllers and public utility commissioners. 3-4 Geo. V. c. 43, s. 85.

Ballot papers for controllers, etc.

86. The ballot papers shall be according to Forms 3, 4, or 5, and shall contain the names of the candidates arranged alphabetically in the order of their surnames, or if there are two or more candidates for the same office with the same surname, in the order of their Christian names. 3-4 Geo. V. c. 43, s. 86.

Form of ballot papers.

Polling Places.

87. Before opening the poll, the clerk shall deliver to every deputy returning officer the ballot papers for use in the polling subdivision for which he has been appointed, and shall furnish him with the materials necessary to enable voters to mark their ballot papers, and such materials shall be kept at the polling place by the deputy returning officer for the use of voters. 3-4 Geo. V. c. 43, s. 87.

Clerk to furnish deputy returning officers with ballot papers, etc.

88. Every polling place shall be furnished with a compartment in which the voters can mark their ballot papers screened from observation, and if it is not provided by the corporation the deputy returning officer shall furnish it, and the cost of it shall be repaid to him as provided by subsection 6 of section 83. 3-4 Geo. V. c. 43, s. 88.

Compartment for making ballots.

Directions to Voters.

89. The clerk shall cause to be printed in conspicuous type a sufficient number of the directions for the guidance of voters, Form 6, for the purposes of the election, and shall deliver to every deputy returning officer as many of the printed directions, but not less than five, as the clerk may deem sufficient. 3-4 Geo. V. c. 43, s. 89.

Directions to voters to be printed.

Deputy
returning
officers to
placard the
directions.

90. Every deputy returning officer, before opening the poll, or immediately after he has received the printed directions from the clerk, if the same were not received before opening the poll, shall cause them to be placarded outside the polling place, and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 3-4 Geo. V. c. 43, s. 90.

Voters' Lists, Poll Books.

Proper
voters' list to
be used at
an election.
Rev. Stat.
c. 6.

91. The proper list of voters to be used at an election shall be the first and second parts of the last voters' list certified by the Judge under *The Ontario Voters' Lists Act*, with the supplementary list, if any, under section 93 or the list provided for by section 94. 3-4 Geo. V. c. 43, s. 91.

For first
election in
new munici-
pality.

92. For the first election in a new municipality for which there is no assessment roll, the clerk, instead of a voters' list, shall provide every deputy returning officer with a poll book, Form 7, and the deputy returning officer or the poll clerk shall enter in it in the proper column the name of every person who tenders his vote, and, at the request of any candidate or voter, shall note opposite the name of such person the property in respect of which he claims to be entitled to vote. 3-4 Geo. V. c. 43, s. 92.

Voters' lists
on forma-
tion of new
corporation,
etc

93.—(1) Where a district as defined by section 11 has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory into a town, or a new town or village is erected, and an election takes place before a voters' list including the names of the persons entitled to vote in such district, territory or for the new town or village is certified by the Judge, the clerk of the municipality to which the same was added, and in the case of a new town or village the returning officer shall prepare from the last certified voters' list of the municipality from which such district, territory, town or village was or became detached, a supplementary list of voters containing the names of and the other particulars relating to the persons who would have been entitled to vote in such district or territory if it had not been so detached.

Clerk's
duties as to
supplemen-
tary lists.

(2) The supplementary list shall be signed by the clerk and attested by his declaration, and he shall deliver to every deputy returning officer a copy of so much of such list as relates to his polling subdivision. 3-4 Geo. V. c. 43, s. 93.

Voters' list;
when clerk
to prepare.

94. In a municipality for which there is an assessment roll, but for which there is no voters' list certified by the Judge, the clerk shall, before the poll is opened, prepare and deliver to the deputy returning officer for every polling subdivision, a list signed by him and attested by his declaration, contain-

ing the names, arranged alphabetically, of all persons appearing by the then last revised assessment roll to be entitled to vote in that polling subdivision. 3-4 Geo. V. c. 43, s. 94.

List of Defaulters in Payment of Taxes.

95.—(1) On or before the last Monday in December the treasurer of each local municipality, if the collector's roll has been returned to him, or the collector, if the roll has not been so returned, shall prepare and verify by his declaration and shall deliver to the clerk an alphabetical list of—

Preparation of list of defaulters.

(a) all persons entered on the first and second parts of the voters' list in respect of income only, who have not paid the taxes on such income on or before the 14th day of December next preceding the election; and,

(b) in municipalities the councils of which have passed by-laws under paragraph 9 of section 399, all persons entered on the first and second parts of the voters' list, who have not paid all municipal taxes due by them on or before the 14th day of December next preceding the election.

(2) Where a municipality is divided into polling subdivisions, such a defaulters' list shall be made for each polling subdivision.

List to be made for each polling subdivisions.

(3) The person who prepares the defaulters' list shall furnish to all persons applying for the same, certified copies of it and of the declaration, in the same manner as and for the same compensation for which copies of the voters' list are to be furnished. 3-4 Geo. V. c. 43, s. 95.

Certified copies to be furnished.

96.—(1) The clerk, before the poll is opened, shall at a time and place appointed by him deliver to the deputy returning officer for every polling subdivision a list, either printed or written, or partly printed and partly written, certified to be a correct list of voters for the polling subdivision, together with a blank poll book, Form 7, and also a copy of the proper defaulters' list prepared under section 95 for the polling subdivision.

Delivery of copies of voters' list, poll book and defaulters' list to deputy returning officers.

(2) The list of voters may be prepared by the clerk or may be procured from the Clerk of the Peace; and in the latter case the Clerk of the Peace shall be entitled to six cents for every ten voters whose names are on the list. 3-4 Geo. V. c. 43, s. 96.

Copies may be prepared by clerk of municipality or procured from Clerk of Peace.

Certificates as to the Assessment Roll.

97.—(1) The clerk, before the poll is opened, shall deliver to every deputy returning officer a certificate, Form 8, of

Clerk to give certificate of dates of final revision of assessment roll, etc.

(a) the date of the final revision of the assessment roll, and

(b) the last day for making complaints to the judge with respect to the voters' list to be used at the election.

Fee for certificate.

(2) The clerk shall also give to any person applying for it a like certificate upon payment of twenty-five cents.

Penalty for neglect.

(3) For every contravention of subsection 2 the clerk shall incur a penalty of \$200. 3-4 Geo. V. c. 43, s. 97.

In Municipalities without Polling Subdivisions.

In municipalities not divided into polling subdivisions, clerk to perform duties of deputy returning officers.

98. In municipalities not divided into polling subdivisions, the clerk shall perform the duties which in other cases are performed by deputy returning officers, and shall provide himself with the necessary ballot papers, the materials for marking ballot papers, the printed directions for the guidance of voters, copies of the voters' list, poll book and defaulters' list, and a certificate of the date of the final revision of the assessment roll, and the last day for making complaints to the judge with respect to the voters' list; and he shall perform the like duties with respect to the whole municipality as are imposed upon a deputy returning officer for a polling subdivision. 3-4 Geo. V. c. 43, s. 98.

Where and how often electors may vote.

Number of votes which may be given by each elector.

99.—(1) An elector shall be entitled to vote,

(a) once only for mayor, controller, reeve, first deputy reeve, second deputy reeve, and third deputy reeve,

(b) where the election is by general vote, once only for as many candidates for any office as there are offices to be filled and once only for each of them.

Where election by general vote.

(2) Where the election is by general vote and an elector is qualified to vote in more than one ward or polling subdivision he shall vote only in that in which he resides if qualified to vote there, or if not qualified to vote there or if he is not a resident of the municipality, he may elect at which of such wards or polling subdivisions he will vote and shall vote there only.

Where aldermen, etc., elected by wards.

(3) Where the aldermen or councillors are elected by wards an elector if qualified to vote therein may vote in each ward for as many candidates as there are offices to be filled and once only for each of them. 3-4 Geo. V. c. 43, s. 99.

100.—(1) The clerk, at the request of an elector, who has been appointed deputy returning officer, poll clerk, or agent of a candidate, for any polling place other than the one at which he is entitled to vote, shall give to such elector a certificate that he is entitled to vote at the polling place where he is to be stationed during polling day; and the certificate shall state the property or other qualification in respect of which he is entitled to vote.

Certificate to entitle deputy returning officers, poll clerks, and agents to vote where stationed.

(2) On the production of the certificate such elector shall have the right to vote at the polling place at which he is stationed instead of at the polling place at which he would otherwise be entitled to vote; and the deputy returning officer shall attach the certificate to the voters' list.

Right to vote on production of certificate.

(3) The certificate shall not entitle the elector to vote at such polling place unless he has been actually engaged as deputy returning officer, poll clerk, or agent during polling day, or to vote for aldermen in cities, or for councillors in municipalities divided into wards, except in the ward where he would otherwise be entitled to vote.

Certificate only to entitle officials who act.

(4) If a deputy returning officer votes at the polling place for which he has been appointed, the poll clerk, or in his absence any elector entitled to be present, may administer to the deputy returning officer the oath required by law to be taken by voters. 3-4 Geo. V. c. 43, s. 100.

Who to administer oath.

THE POLL.

101.—(1) The poll shall be opened at every polling place at nine o'clock in the forenoon and shall be kept open until five o'clock in the afternoon of the same day.

Time for opening and closing poll.

(2) The council of a city may by by-law passed before the 15th day of November in any year extend the time for keeping open the poll until seven o'clock in the afternoon.

By-law for extension of time.

(3) The votes shall be given by ballot. 3-4 Geo. V. c. 43, s. 101.

Vote by ballot.

102. The deputy returning officer shall, immediately before opening the poll, show the ballot box to such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed. 3-4 Geo. V. c. 43, s. 102.

Deputy returning officer to show box empty to persons present and then lock and seal it.

103.—(1) Where a person tenders his vote, the deputy returning officer shall proceed as follows:

Proceedings by deputy returning officer on tender of vote.

(a) except where there is no voters' list he shall ascertain that the name of such person or a name ap- Name.

parently intended for it is entered on the voters' list for the polling subdivision;

- Recording. (b) he shall record, or cause to be recorded by the poll clerk, in the proper columns of the poll book the name, qualification, residence and occupation of such person;
- Objection. (c) where the vote is objected to by any candidate or his agent, the deputy returning officer shall enter or cause to be entered the objection in the poll book, by writing opposite the name of such person in the proper column the words "*Objected to*," and the name of the candidate by or on behalf of whom the objection was made;
- Oath. (d) if such person takes the prescribed oath, the deputy returning officer shall enter or cause to be entered opposite such person's name, in the proper column of the poll book the word "*Sworn*," or "*Affirmed*," according to the fact;
- Refusal to take the oath. (e) where such person has been required to take the oath and refuses to do so, the deputy returning officer shall enter or cause to be entered opposite the name of such person, in the proper column of the poll book, the words, "*Refused to be Sworn*," or "*Refused to Affirm*," according to the fact;
- Deputy returning officer to initial ballot paper and mark voters' list. (f) after the proper entries have been made in the poll book the deputy returning officer shall place or cause to be placed a check or mark opposite the name of the voter in the voters' list to indicate that he has voted, and shall then put his initials on the back of the ballot paper;
- Delivery of to voter. (g) the ballot paper shall then be delivered to such person;
- Deputy returning officer to explain mode of voting. (h) the deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the voter, as concisely as possible, the mode of voting.
- Penalty. (2) The vote of a person who has refused to take the oath shall not be received, and if the deputy returning officer receives such vote, or causes it to be received, he shall incur a penalty of \$200. 3-4 Geo. V. c. 43, s. 103.
- Oath, etc., of person claiming to vote. **104.**—(1) The only oath to be required of a person claiming to vote shall be according to Form 9.
- Voter may select any form of oath. (2) The voter shall be entitled to select any one of the forms of oath, whatever may be the description either in the voters' list or assessment roll of the qualification or character in which he is entered upon it.

(3) The oath may be administered by the returning officer or deputy returning officer if he thinks fit, and shall be administered at the request of any candidate or his agent, and no inquiry shall be made of a voter, except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated on the voters' list, or the assessment roll, as the case may be. 3-4 Geo. V. c. 43, s. 104.

When and how oaths are to be administered.

105. The deputy returning officer or the poll clerk shall place his initials in the appropriate column of the poll book opposite the name of every person who has voted for a candidate for the office named in that column. 3-4 Geo. V. c. 43, s. 105.

Deputy returning officer to initial names of persons voting.

106.—(1) Upon receiving the ballot paper the person receiving it shall—

Marking ballot paper.

(a) forthwith proceed into the compartment provided for the purpose, and shall then and there mark his ballot paper by placing a cross, on the right hand side, opposite the name of a candidate for whom he desires to vote, or at any other place within the division which contains the name of such candidate;

(b) then fold the ballot paper so as to conceal the names of the candidates, and the marks upon the face of it, and to expose the initials of the deputy returning officer;

(c) then leave the compartment without delay, and without showing the face of the ballot paper to any one, or so displaying it as to make known how he has marked it; and

(d) then deliver the ballot paper so folded to the deputy returning officer.

(2) The deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates, or the marks made by the voter, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the presence of all persons entitled to be present and then present in the polling place; and the voter shall forthwith leave the polling place. 3-4 Geo. V. c. 43, s. 106.

Duties of D.R.O. on receipt of ballot.

107. While a voter is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment, or to be in a position from which he can see how the voter marks his ballot paper. 3-4 Geo. V. c. 43, s. 107.

Exclusion from balloting compartment.

108. A person who has received a ballot paper shall not take, and the deputy returning officer may prevent him from taking, it out of the polling place and if he leaves the polling

Voter not to take his ballot paper from polling place.

place without delivering it to the deputy returning officer in the prescribed manner or returns the ballot paper declining to vote he shall thereby forfeit his right to vote and the deputy returning officer shall make an entry in the poll book, in the column for "*Remarks*," to the effect that such person received a ballot paper, but took it out of the polling place, or returned it, declining to vote, as the case may be and in the latter case the deputy returning officer shall immediately write the word "*Declined*" upon the ballot paper and shall preserve it. 3-4 Geo. V. c. 43, s. 108.

Proceedings
in case of
incapacity to
mark ballot
paper.

109.—(1) The deputy returning officer on the application of a voter who is incapacitated by blindness or other physical cause from marking his ballot paper, or who makes a declaration, Form 10, that he is unable to read, or where the voting is on a Saturday that he is of the Jewish persuasion and objects on religious grounds to mark his ballot paper in the manner prescribed by section 106, the deputy returning officer shall—

(a) in the presence of the poll clerk and the agents of the candidates, cause the vote of such person to be marked on the ballot paper in the manner directed by him, and shall place the ballot paper in the ballot box.

(b) make an entry opposite the name of the voter in the proper column of the poll book, that his vote was marked in pursuance of this section, and of the reason why it was so marked.

Oral declaration.

(2) Where the voter objects on religious grounds to mark his ballot paper, the declaration may be made orally. 3-4 Geo. V. c. 43, s. 109.

Proceedings
in case
ballot paper
cannot be
used.

110. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer shall be entitled to obtain another ballot paper, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first mentioned ballot paper, and preserve it. 3-4 Geo. V. c. 43, s. 110.

What shall
be deemed
a tender of
a vote and
a voting.

111. A person who applies for a ballot paper shall be deemed to have tendered his vote; and a person whose ballot paper has been deposited in the ballot box, or who has delivered it to the Deputy Returning Officer or Poll Clerk, for the purpose of having it deposited in the ballot box, shall be deemed to have voted. 3-4 Geo. V. c. 43, s. 111.

Who may be
in polling
place.

112. The deputy returning officer, the poll clerk, the constable or constables, the candidates and their agents, and no others, shall be permitted to remain in the polling place during the time the poll is open or at the counting of the votes. 3-4 Geo. V. c. 43, s. 112.

113. In cities in which the aldermen are elected by general vote a candidate shall be entitled to one agent only, and except in such cities a candidate in any municipality shall be entitled to two agents. 3-4 Geo. V. c. 43, s. 113. Number of agents.

114.—(1) No person on the day of the polling shall use or deliver to any other person any card, ticket, leaflet, book, circular or writing soliciting votes for or against any candidate, or by-law, or for an affirmative or negative answer to any question, or having upon it the name of any candidate. Use or delivery of election cards, etc.

(2) Every person who contravenes the provisions of subsection 1 shall incur a penalty not exceeding \$20. 3-4 Geo. V. c. 43, s. 114. Penalty.

Proceedings after the Close of the Poll.

115. Immediately after the close of the poll, the deputy returning officer shall first place all the cancelled and declined ballot papers in separate packets and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted, and cause a certificate, in the following form:—"I certify that the number of voters who voted at the election in this polling place is (stating the number in words) and that ——— was the last person who voted at this polling place," to be entered in the poll book on the line immediately below the name of the voter who voted last, and such certificate shall be signed by the deputy returning officer, the poll clerk, and any candidate or agent present who desires to sign it; then, in their presence and in full view he shall open the ballot box and count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper. 3-4 Geo. V. c. 43, s. 115. Counting the votes.

116. In counting the votes the deputy returning officer shall reject all ballot papers— What votes to be rejected.

- (a) which have not been supplied by him; or
- (b) by which votes have been given for more candidates than are to be elected; or,
- (c) upon which there is any writing or mark by which the voter can be identified, or which has been so torn, defaced or otherwise dealt with by the voter that he can thereby be identified;

but no word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot paper shall avoid it or warrant its rejection. 3-4 Geo. V. c. 43, s. 116.

117.—(1) The deputy returning officer shall make a note of every objection taken to a ballot paper, by a candidate or Objections to be noted and decided.

his agent, and shall decide the objection subject to review on recount or in a proceeding questioning the validity of the election.

Numbering objections.

(2) Each objection shall be numbered, and a corresponding number shall be placed on the back of the ballot paper and initialed by the deputy returning officer. 3-4 Geo. V. c. 43, s. 117.

Account to be kept of ballot papers.

118.—(1) All the ballot papers except those rejected shall be counted, shall be put into a packet, and an account shall be kept of the number of ballots cast for each candidate, and of the number of rejected ballot papers, and the rejected and unused ballot papers shall be put into separate packets.

Each packet to be endorsed and sealed.

(2) Every packet shall be endorsed so as to indicate its contents, and shall be sealed by the deputy returning officer, and any candidate or agent present may write his name on the packet and may affix to it his seal. 3-4 Geo. V. c. 43, s. 118.

Statement of result to be made by deputy returning officer.

119.—(1) The deputy returning officer shall make out a statement in duplicate of—

- (a) the number of ballot papers received from the clerk;
- (b) the number of votes given for each candidate and the rejected ballot papers;
- (c) the used ballot papers which have not been objected to and have been counted;
- (d) the ballot papers which have been objected to, but which have been counted by the deputy returning officer;
- (e) the rejected ballot papers;
- (f) the cancelled ballot papers;
- (g) the declined ballot papers;
- (h) the unused ballot papers;
- (i) the number of voters whose ballot papers have been marked by the deputy returning officer under section 109.

Disposal of statement.

(2) One statement shall be attached to the poll book, and the other shall be enclosed in a special packet and delivered to the clerk.

Signing of statement.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their agents as are present and desire to sign it.

Certificate of result of poll.

(4) The deputy returning officer shall deliver to such of the candidates or their agents as are present, if requested to

do so, a certificate of the number of ballot papers counted for each candidate, and of the rejected ballot papers. 3-4 Geo. V. c. 43, s. 119.

120. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe an oath Oath of poll clerk similar to that required by subsection 3 of section 122, to be taken by the deputy returning officer. 3-4 Geo. V. c. 43, s. 120.

121. The poll book, the voters' list, the packets containing the ballot papers, and all other documents which served at the election, except the duplicate statement shall then be placed in the ballot box. Poll book, voters' list and packets to be put in ballot box. 3-4 Geo. V. c. 43, s. 121.

122.—(1) The deputy returning officer shall then immediately lock and seal the box, and any candidate or agent present may also affix to it his seal and the deputy returning officer shall then forthwith deliver it personally to the clerk, or if he is unable to do so owing to illness or other imperative cause, he shall deliver it to the poll clerk, or where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it, and shall on it or on a ticket attached to it write the name of the person to whom the ballot box has been delivered, and shall take a receipt for it, and the poll clerk or person so chosen shall forthwith deliver the ballot box personally to the clerk and shall take and subscribe before him, the oath, Form 12. Delivery of ballot box to clerk.

(2) In cities and towns, the deputy returning officer, or in case of his inability, as mentioned in subsection 1, the poll clerk or the person chosen, shall proceed directly from the polling place to the office of the clerk with the ballot box, and there personally on the same day, as soon as possible after leaving the polling place, deliver it to the clerk, and the poll clerk or the person chosen shall take and subscribe before him the oath, Form 12, and the clerk shall remain in his office on the evening of the polling day until all the ballot boxes have been returned to him. Return of ballot boxes, etc., in cities and towns.

(3) Forthwith thereafter the deputy returning officer shall take and subscribe the oath, Form 13, and shall personally deliver it or transmit it by registered post to the clerk. Oath of D.R.O. 3-4 Geo. V. c. 43, s. 122.

123. The clerk, upon the receipt of a ballot box, shall take every precaution for its safe keeping and for preventing any other person from having access to it, and shall immediately on the receipt of it seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. Duties of clerk as to ballot box. 3-4 Geo. V. c. 43, s. 123.

D.R.O. not
to take
ballot box
to his home.

124. A deputy returning officer in a city or town shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk. 3-4 Geo. V. c. 43, s. 124.

Return by
D.R.O. when
election in-
terrupted.

125. Where the holding of the election has been interrupted, as mentioned in section 128, the deputy returning officer shall delay making his return to the clerk until the polling has taken place. 3-4 Geo. V. c. 43, s. 125.

Clerk to cast
up votes and
declare
what candi-
dates
elected.

126. The clerk, after he has received the ballot papers and statements of the number of votes given at each polling place, without opening any of the sealed packets of ballot papers, shall cast up from the statements the number of votes for each candidate; and at the town hall, or if there is no town hall, at some other public place, at four o'clock in the afternoon in the case of a city having a population of not less than 100,000, and at noon in the case of other municipalities on the day following the return of the ballot papers and statements, shall publicly declare to be elected the candidate or candidates having the highest number of votes; and he shall also put up in some conspicuous place a statement under his hand showing the number of votes for each candidate. 3-4 Geo. V. c. 43, s. 126.

In case of a
tie clerk to
have a cast-
ing vote.

127. If, upon the casting up of the votes or upon a recount, two or more candidates have an equal number of votes, the clerk, or other person appointed by by-law to discharge the duties of clerk, whether otherwise qualified or not, shall, at the time he declares the result of the poll, or after receiving the certificate of the result of the recount, as the case may be, give a vote for one or more of such candidates, so as to decide the election. 3-4 Geo. V. c. 43, s. 127.

Case of Election not held at Proper Time, etc.

Election not
commenced,
or inter-
rupted by
reason of
riot, etc., to
be resumed.

128. If, by reason of a riot or other emergency, an election, or the voting at a polling place, is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the returning officer, or deputy returning officer, as the case may be, shall hold or resume the election on the following day at the hour of nine o'clock in the forenoon, and continue the same from day to day until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eight hours in all. 3-4 Geo. V. c. 43, s. 128.

[As to postponement of an election on account of an epidemic or contagious disease, see *The Public Health Act. Rev. Stat. c. 218, s. 115.*]

RECOUNT.

129.—(1) If within fourteen days after the declaration by the clerk of the result of the election, upon the application of a candidate or voter it is made to appear by affidavit to a Judge of the county or district court of the county or district in which the municipality is situate, that a deputy returning officer, in counting the votes has improperly counted or rejected any ballot paper, or made an incorrect statement of the number of ballots cast for any candidate, and if within that time the applicant deposits with the clerk \$25 as security for the costs in connection with the recount of the candidate declared to be elected, or if at any time within four weeks after such declaration in a city having a population of not less than 100,000 the council has by resolution declared that a recount is desirable in the public interest, the Judge may appoint a time and place to recount the votes.

Re-count of votes by County Judge, where ballot papers have been improperly counted or rejected.

(2) At least two days' notice in writing of the time and place appointed shall be given to the candidates and to the clerk, and the clerk shall attend the recount with the ballot boxes and all documents relating to the election.

Notice to candidates.

(3) The Judge, the clerk, and each candidate and his agent appointed to attend the recount, but no other person, except with the sanction of the Judge, shall be entitled to be present at the recount.

Who may be present at re-count.

(4) At the time and place appointed, the Judge shall recount all the ballot papers received by the clerk, and shall in the presence of such of the persons entitled to be present as attend, open the sealed packets containing the used ballot papers which were not objected to and were counted; the ballot papers objected to, but which were counted; the rejected ballot papers; the cancelled ballot papers; and the unused ballot papers.

Opening of packets.

(5) The Judge shall, as far as practicable, proceed continuously, allowing only time for refreshment and excluding, except so far as he and the persons present agree, the hours between six o'clock in the afternoon and nine o'clock in the succeeding forenoon, and during the excluded time the Judge shall place the ballot papers and other documents relating to the election close under his own seal, and the seals of such of the persons present as desire to affix their seals, and shall otherwise take all necessary precautions for the security of them.

Re-count to be a continuous proceeding.

(6) Subject to subsection 7 the Judge shall proceed according to the provisions for the counting of the ballot papers at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Rules to govern Judge in proceedings.

(7) If for any reason it appears desirable to do so, the Judge upon the application of any party to the proceeding

Evidence may be taken.

may hear such evidence as he may deem necessary for the purpose of making a full and proper recount of the ballot papers.

Certificate
of Judge as
to result.

(8) Upon the completion of the recount the Judge shall seal up all the ballot papers in their separate packets, and shall forthwith certify the result to the clerk, who shall then declare elected the candidate having the highest number of votes.

Existing
remedies
not affected.

(9) Nothing in this section shall affect any remedy which any person may have under the provisions hereinafter contained by proceedings in the nature of *quo warranto* or otherwise. 3-4 Geo. V. c. 43, s. 129.

Costs.

130.—(1) The costs of the recount shall be in the discretion of the Judge, who may order by whom, to whom and in what manner the same shall be paid.

Taxing of.

(2) The Clerk of the County or District Court shall tax the costs and shall, as nearly as may be, follow the tariff of costs of the County Court.

Deposit,
disposal of.

(3) Where costs are directed to be paid by the applicant, the money deposited as security for costs shall be paid out to the party entitled to such costs, so far as necessary.

Recovery of
costs.

(4) Payment of the costs may be enforced by execution, to be issued from any County or District Court, upon filing therein the order of the Judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them. 3-4 Geo. V. c. 43, s. 130.

Secrecy of Proceedings.

Maintaining
secrecy of
proceedings.

131.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.

Interference
with voters.

(2) No person shall interfere or attempt to interfere with a voter when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how a voter is about to vote or has voted.

Communi-
cating
information
as to how
voter has
voted

(3) No person shall communicate any information obtained at a polling place as to how a voter at such polling place is about to vote or has voted. 3-4 Geo. V. c. 43, s. 131.

Inducing
voter to
display
ballot after
marking.

132. No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot paper after he has marked it so as to make known to any person how he has voted. 3-4 Geo. V. c. 43, s. 132.

Voter not to
display
marked ballot.

133. Subject to section 109 a voter shall not show his ballot paper, when marked, to any person so as to make known how he voted. 3-4 Geo. V. c. 43, s. 133.

134. Every returning officer and every officer, clerk, constable, agent and other person authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties, take the oath of secrecy, Form 14. 3-4 Geo. V. c. 43, s. 134.

Oath of
secrecy.

135.—(1) If a returning officer, deputy returning officer or poll clerk becomes aware, or has reason to believe or suspect, that any provision of the law as to secrecy has been violated, he shall forthwith communicate the particulars to the Crown Attorney.

Proceedings
where
officers
aware of
violation of
secrecy.

(2) The Crown Attorney, on receiving such information from any person, shall forthwith enquire into the matter and, if proper, prosecute the offender. 3-4 Geo. V. c. 43, s. 135.

Crown
Attorney to
prosecute.

136. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. 3-4 Geo. V. c. 43, s. 136.

No one com-
pellable to
disclose his
vote.

General.

137. Every returning officer, deputy returning officer, or other person whose duty it is to deliver poll books or who has the custody of a voters' list or poll book, who wilfully makes any alteration or insertion in or wilfully omits anything from or in any way wilfully falsifies such voters' list or poll book, shall incur a penalty of \$2,000, and shall also be liable to imprisonment for any term not exceeding one year. 3-4 Geo. V. c. 43, s. 137.

Returning
officers, etc.,
wilfully
falsifying or
altering list
of voters to
incur
penalty.

138. Every person who—

Offences
relating to
ballot papers.

- (a) Fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer thereon; or
- (b) Without due authority supplies a ballot paper to any person; or
- (c) Fraudulently places in a ballot box a paper other than the ballot paper which he is authorized by law to place therein; or
- (d) Fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given to him by the deputy returning officer; or
- (e) Fraudulently takes a ballot paper out of the polling place; or
- (f) Without authority destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers or a ballot paper or ballot in use or used for the purposes of an election; or

- (g) Applies for a ballot paper in the name of another person whether the name be that of a person living or dead, or of a fictitious person, or having voted applies at the same election for a ballot paper in his own name or votes oftener than he is entitled to; or
- (h) Being a deputy returning officer, contravenes section 124, or fraudulently puts his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election; or
- (i) With fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or
- (j) Being employed to print the ballot papers for an election, with fraudulent intent prints more ballot papers than he is authorized to print; or
- (k) Attempts to commit or aids, abets, counsels or procures the commission of any offence mentioned in this section;

if a returning officer, deputy returning officer or other officer engaged in the election, shall be liable to imprisonment for any term not exceeding two years, and, in the case of any other person, to imprisonment for any term not exceeding six months. 3-4 Geo. V. c. 43, s. 138.

Persons unlawfully destroying, etc., documents relating to elections, etc.

139.—(1) Every person who wilfully and maliciously destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a warrant for holding an election, a poll book, voters' list, certificate, affidavit or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act or any of them, shall incur a penalty of \$2,000, and shall also be liable to imprisonment for any term not exceeding one year.

Abettors punishable.

(2) Every person who aids, abets, counsels or procures the commission of a violation of subsection 1 shall incur the like penalty and be subject to the like imprisonment.

Recovery of penalty.

(3) The pecuniary penalty shall be recoverable by action at the suit of His Majesty, and the imprisonment may be directed by the court in which the action is brought. 3-4 Geo. V. c. 43, s. 139.

Penalty for D.R.O. omitting to initial ballots.

140.—(1) Every deputy returning officer who wilfully omits to put his initials on the back of a ballot paper in use for the purposes of an election, shall incur a penalty of \$10 in respect of every such ballot paper.

D.R.O. or poll clerk neglecting duties.

(2) A deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by sections 115 to 123 shall, for each refusal or neglect, incur a penalty of \$200. 3-4 Geo. V. c. 43, s. 140.

141. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll shall incur a penalty of \$200. 3-4 Geo. V. c. 43, s. 141. Wilfully miscounting ballots, etc.

142. Every person who acts in contravention of sections 131 to 133 shall be liable to imprisonment for any term not exceeding six months. 3-4 Geo. V. c. 43, s. 142. Penalty for violating secrecy.

143. Every officer engaged in the election who is guilty of a wilful act or omission in contravention of this Act shall in addition to any other penalty or liability to which he may be subject forfeit to any person who may be aggrieved thereby the sum of \$400. 3-4 Geo. V. c. 43, s. 143. Money penalty for offences.

Miscellaneous Provisions.

144. A candidate may undertake the duties which his agent might undertake, or he may assist his agent in the performance of such duties, and may be present at any place at which his agent is authorized to be present; but no candidate shall be present at the marking of a ballot paper under section 109. 3-4 Geo. V. c. 43, s. 144. Candidate may undertake duties of an agent.

145. Except where otherwise provided any oath required to be taken in connection with an election may be taken before the clerk of the municipality, a returning officer or a deputy returning officer, as well as before any other person by whom under *The Interpretation Act* an oath may be administered. 3-4 Geo. V. c. 43, s. 145. Who may administer oaths re election. Rev. Stat. c. 1.

146.—(1) The clerk shall retain in his possession for one month all the ballot papers, and, unless otherwise directed by an order of a Judge or officer having jurisdiction to enquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a declaration that they witnessed the destruction of them. Ballot papers, how disposed of.

(2) The declaration shall be made before the head of the municipality and filed in the office of the clerk. 3-4 Geo. V. c. 43, s. 146.

147.—(1) No person shall be allowed to inspect any ballot paper in the custody of the clerk except under the order of a Judge or an officer having jurisdiction to inquire as to the validity of the election. Ballot papers to be inspected only by order of a Judge.

(2) The order may be made on the Judge or officer being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence in relation to ballot papers, or of taking proceedings for contesting the election or return. Grounds for granting order.

Order may
be subject
to conditions.

(3) The order may be made subject to such conditions as the Judge or officer may deem proper. 3-4 Geo. V. c. 43, s. 147.

Production
of documents
and indorse-
ments on
ballot papers
evidence for
certain
purposes.

148. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order shall be evidence that the document relates to the election; and any indorsement appearing on any packet of ballot papers so produced shall be evidence that the contents are what they are stated to be by the indorsement. 3-4 Geo. V. c. 43, s. 148.

Expressions
refer-
ring to
agents.

149. Where in this Part expressions are used, requiring or authorizing any act or thing to be done, or implying that any act or thing is to be done in the presence of the agents of the candidates, they shall be deemed to refer to the presence of such agents of the candidates as are authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done; and the non-attendance of an agent at such time and place, if it is otherwise duly done, shall not invalidate the act or thing done. 3-4 Geo. V. c. 43, s. 149.

Non-attend-
ance of
agents.

150. No election shall be or be declared to be invalid—

- (a) For non-compliance with the provisions of this Act as to the taking of the poll or anything preliminary thereto or as to the counting of the votes; or
- (b) By reason of mistake in the use of the prescribed forms; or
- (c) By reason of any mistake or irregularity in the proceedings at or in relation to the election;

if it appears to the tribunal by which the validity of the election or any proceeding in relation to it is to be determined that the election was conducted in accordance with the principles laid down in this Act, and it does not appear that such non-compliance, mistake or irregularity affected the result of the election. 3-4 Geo. V. c. 43, s. 150.

Expenses
incurred by
officers to be
repaid to
them.

151. The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, and for the transmission of packets, and reasonable fees and allowances for services rendered under this Part, shall be paid to the clerk by the treasurer, and shall be paid by the clerk to the persons entitled thereto. 3-4 Geo. V. c. 43, s. 151.

Vacancies in Council.

152. The seat of a member of a council shall become vacant if he—

- (a) Is undergoing imprisonment under sentence for a criminal offence; or
- (b) Becomes insolvent within the meaning of any Insolvent Act in force in Ontario; or
- (c) Is in close custody under *The Fraudulent Debtors Arrest Act* or is discharged from close custody under section 53 of that Act; or
- (d) Assigns his property for the benefit of his creditors; or
- (e) Absents himself from the meetings of the council for three successive months without being authorized so to do by a resolution of the council entered upon its minutes;

Seat to become vacant by crime, insolvency, absence, etc. See *Mearns vs. Petrolia*, 1880, 28, Grant 98.

Rev. Stat. c. 83.

and the council shall forthwith declare the seat to be vacant. 3-4 Geo. V. c. 43, s. 152.

153. Except in the cases provided for by section 152, if a member of a council forfeits his seat or his right to it or becomes disqualified to hold it and does not forthwith resign his seat, proceedings may be taken under sections 160 to 179 to declare it vacant. 3-4 Geo. V. c. 43, s. 153.

Proceedings, if disqualified member fails to resign.

154. A member of a council, with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council. 3-4 Geo. V. c. 43, s. 154.

Resignation of member with consent of council.

155.—(1) The warden of a county may resign his office either by verbal intimation to the county council when in session or by letter to the clerk when the council is not in session.

Resignation of warden.

(2) Where from any cause a vacancy occurs in the office of warden when the council is not in session, the clerk shall forthwith notify the members of the vacancy and, if required in writing so to do by a majority of them, he shall call a special meeting of the council to fill the vacancy. 3-4 Geo. V. c. 43, s. 155.

Vacancy in office of warden—how filled.

156.—(1) Subject to sections 157 and 158, a new election shall be forthwith held where—

When new election to be held.

- (a) A person elected has neglected or refused to accept office or to make the prescribed declarations within the prescribed time; or

See *Banks v. Letherby*, 17 O.L.R. 304.

(b) A vacancy, except in the office of controller, occurs from any cause.

Warrant for new election.

(2) Where a new election is to be held the head of the council, or if he is absent or unable to act or there is a vacancy in the office, the clerk, or if they are both absent or unable to act or both offices are vacant, one of the members of the council shall forthwith issue a warrant under his hand for the holding of the new election.

Returning and deputy returning officers—nomination and polling.

(3) The returning officer and the deputy returning officers appointed to hold the next preceding election shall be the returning officer and the deputy returning officers to hold the new election, and the nomination shall be held and the polling shall take place at the respective places at which the nomination was held and the polling took place at such last election, unless the council appoints other persons to hold the election and other places at which the nomination shall be held and the polling take place, which the council may do.

Procedure where new election before first meeting of council.

(4) Where a new election becomes necessary before the first meeting of the council in the year for which it is elected the duties which by subsection 2 are to be performed by the head, clerk, or a member of the council shall be performed by the head, clerk, or a member of the council of the next preceding year.

Time for holding election.

(5) The new election shall be held at the latest within fifteen days after the receipt of the warrant by the person to whom it is directed, and the person issuing the warrant shall appoint a time for the nomination of candidates and for the polling if a poll is required, and the election shall be conducted in like manner as an annual election.

Term of office of members elected.

(6) The person elected shall hold office for the residue of the term for which the person whose place he is elected to fill was elected.

Majority of council may hold first meeting.

(7) Notwithstanding that a new election becomes necessary meetings of the council may be held if a majority of the full number of the council is present. 3-4 Geo. V. c. 43, s. 156.

Vacancies in office of alderman in cities where election is by general vote.

157.—(1) Where a vacancy occurs in the office of alderman in a city where aldermen are elected by general vote the unsuccessful candidate who received the highest number of votes at the next preceding election shall be entitled to the office upon making the prescribed declarations within the prescribed time, and if he fails to do so or disclaims the office one of the candidates following in regular order according to the number of votes received shall, as hereinafter provided, become entitled to the office on making such declarations within the prescribed time.

(2) Where the number of votes cast for two or more of such candidates is equal, their order of succession shall be determined by the amounts for which they are respectively rated upon the last revised assessment roll, the candidate having the largest assessment having the priority.

Candidate having largest assessment to have priority in case of a tie.

(3) The clerk shall immediately after the vacancy occurs give notice in writing to the candidate who is first in succession that he is entitled to such vacant office if he makes the prescribed declarations within one week after the giving of the notice, and that if he fails to make the declarations within that time he shall be deemed to have disclaimed the office.

Notice of vacancy.

(4) If a candidate fails to make the prescribed declarations within the prescribed time, or disclaims the office, the clerk shall forthwith give notice in writing to the candidate next in succession in the same terms as the notice to the first candidate, until the vacant office has been filled or the list of candidates entitled to take it is exhausted.

Failure to take prescribed declarations.

(5) The notice may be served personally or may be sent by registered letter addressed to the candidate, and a record of the service or of the mailing and of the address shall be preserved by the clerk.

Service of notice on candidate.

(6) If all the aldermen were elected by acclamation, or if no candidate takes the vacant office under the preceding provisions of this section, the council shall forthwith elect a person to fill the vacancy for the remainder of the term of the member whose seat has become vacant. 3-4 Geo. V. c. 43, s. 157.

When council to elect person to fill vacancy.

158.—(1) Where the office of mayor of a city becomes vacant after the first day of July in any year and an election to fill the vacancy has not been ordered in a judicial proceeding, the council shall elect one of their number to fill the office for the remainder of the term.

Vacancy in office of mayor of city after July 1st.

(2) Where the office of mayor, reeve or deputy reeve of a town or of reeve or deputy reeve of a village or township becomes vacant after the first day of November in any year, and an election to fill the vacancy has not been ordered in a judicial proceeding, the council may elect one of its number to fill the office for the remainder of the term.

In office of mayor, reeve and deputy reeve in towns and villages.

(3) Where a vacancy occurs in the office of alderman where aldermen are not elected by general vote or of councillor after the first day of November in any year and an election has not been ordered in a judicial proceeding it shall not be necessary that the vacancy be filled if the council so directs. 3-4 Geo. V. c. 43, s. 158.

When vacancy need not be filled.

159. Where the electors do not elect the requisite number of members, the members elected if they equal at least one-half of the council when complete or a majority of them or if half of such members were not elected the members for the

Case where electors fail to elect requisite number of members.

next preceding year or a majority of them shall elect as many qualified persons as are necessary to constitute or complete the requisite number of members. 3-4 Geo. V. c. 43, s. 159.

PART IV.

PROCEEDINGS TO DECLARE SEAT VACANT.

Procedure.

Interpretation.

"Judge."

160. In this Part,—

(a) "Judge" unless the Court is referred to by name shall include a Judge of the Supreme Court and a Judge of a County or District Court;

"Master in Chambers."

(b) "Master in Chambers" shall include any officer having jurisdiction to sit and act for the Master in Chambers. 3-4 Geo. V. c. 43, s. 160.

Who may try validity of election or right to deputy reeve.

161.—(1) The validity of the election of a member of a council or his right to hold his seat, or the right of a local municipality to a deputy reeve, may be tried and determined by a Judge of the Supreme Court, by the Master in Chambers, or by a Judge of the County or District Court of the county or district in which the municipality is situate.

Relator—where right to deputy reeve contested.

(2) Where the right of a municipality to a deputy reeve is contested any candidate at the election or an elector who gave or tendered his vote at it, or where the election was by acclamation, or the right to sit is contested on the ground that the member has become disqualified or has forfeited his seat since his election, an elector entitled to vote at the election may be the relator. 3-4 Geo. V. c. 43, s. 161.

Time within which proceedings to be instituted and security and proof required.

162.—(1) If within six weeks after an election, or one month after the acceptance of office by a member of a council a person entitled to be a relator shows by affidavit reasonable ground for supposing that the election was not legal, or was not conducted according to law, or that the person declared elected was not duly elected, or for contesting the validity of the election, or if within six weeks after the facts come to the knowledge of a person entitled to be a relator he shows by affidavit reasonable ground for supposing that a member of a council has forfeited his seat or become disqualified since his election, the Judge or the Master in Chambers, as the case may be, shall give his fiat, authorizing the relator, upon entering into a recognizance as hereinafter provided, and the same being allowed as sufficient, to serve a notice of motion to determine the matter.

Recognizance.

(2) The recognizance shall be entered into before the Judge or Master in Chambers granting the fiat, or before a commissioner for taking affidavits, by the relator in the sum

of \$200 and by two sureties, to be allowed as sufficient by the Judge or Master in Chambers upon affidavit of justification, each in the sum of \$100; and shall be conditioned to prosecute the motion with effect and to pay to the person against whom it is made any costs which may be adjudged to him against the relator.

(3) When the recognizance has been allowed as sufficient, the Judge or Master in Chambers by whom it is allowed shall note upon it and upon the fiat allowing service of the notice of motion the words "*Recognizance allowed*" and shall initial the same. Allowance of recognizance.

(4) Where the proceedings are taken before a Judge of the Supreme Court or before the Master in Chambers they shall be entitled in the Supreme Court; and where they are taken before a Judge of a County or District Court they shall be entitled in that Court. 3-4 Geo. V. c. 43, s. 162. Proceedings—how to be entitled.

163. The relator in his notice of motion shall set forth his name in full, his occupation and place of residence, and the interest which he has in the election, whether as candidate or as an elector, and shall state specifically under distinct heads all the grounds of objection to the validity of the election complained of, and in favour of the validity of the election of himself or of any other person, where the relator claims that he or that such person was duly elected, or the grounds of forfeiture or disqualification, as the case may be. 3-4 Geo. V. c. 43, s. 163. Contents of notice of motion.

164. Before serving the notice of motion, the relator shall file all the affidavits and material upon which he intends to move, except where oral evidence is to be taken, and in that case he shall name in the notice the witnesses whom he proposes to examine. 3-4 Geo. V. c. 43, s. 164. Affidavits, etc., to be filed.

165. The notice of motion shall be served within two weeks from the date of the fiat, unless upon a motion to allow substituted service the Judge or Master in Chambers otherwise orders, and not less than seven clear days before the day on which the motion is returnable, and shall be served personally, unless the person to be served avoids personal service, in which case an order may be made for substituted service. 3-4 Geo. V. c. 43, s. 165. Service of notice of motion.

166. Where the relator alleges that he or some other person was duly elected, the motion shall be to try the validity of the election complained of and of the alleged election of the relator or other person. 3-4 Geo. V. c. 43, s. 166. Where relator claims that he or another was elected.

167. Where the grounds of objection apply to two or more persons elected or sitting as members of a council, the relator may proceed by one motion against all of them. 3-4 Geo. V. c. 43, s. 167. One motion against several persons.

Hearing of
motion.

168. On the hearing of the motion the relator shall not be allowed to object to the election of the person complained of or to support the election of himself or of any person alleged to have been duly elected or to attack the right of any member to sit on any ground not specified in the notice of motion; but the Judge or the Master in Chambers may entertain any substantial ground of objection to or in support of the validity of the election of either or any of the parties which may appear in evidence before him. 3-4 Geo. V. c. 43, s. 168.

Who to hear
motions
when more
than one.

169. Where more motions than one are made to try the validity of the election, or the right to sit of the same person, all of them shall be made returnable, and unless otherwise directed by a Judge of the Supreme Court, shall be heard and determined by the Judge or Master in Chambers before whom the motion, notice of which was first served, is returnable, and one order upon all, or a separate order upon one or more of them may be made, as he may deem proper. 3-4 Geo. V. c. 43, s. 169.

Requiring
clerk to
attend with
rolls, voters'
lists, etc.

170. The Judge or Master in Chambers may require the clerk of any municipality to produce before him or to forward under seal to the clerk of the county or district court for the purpose of production, such assessment rolls, collector's rolls, ballot papers, books, voters' and other lists, and other records of the election and papers in his hands connected with or relating to it as the Judge or Master in Chambers may deem proper. 3-4 Geo. V. c. 43, s. 170.

Taking of
evidence to
be used on
motion.

171. Where the motion is returnable before a Judge of the Supreme Court he may direct that the evidence to be used on the hearing of the motion be taken orally in the presence of counsel for or after notice to all parties interested before a special examiner or a Judge of a County or District Court, who shall return the evidence so taken to the proper officer of the Supreme Court. 3-4 Geo. V. c. 43, s. 171.

Returning
officer, etc.,
may be
made a
party.

172.—(1) The Judge or Master in Chambers, at any stage of the proceedings, may

(a) Add the returning officer or any deputy returning officer or other person as a party to the proceedings.

(b) Allow any person entitled to be a relator to intervene and prosecute, or to defend, and may grant a reasonable time for that purpose.

Person en-
titled to be
a relator
may prose-
cute or
defend.

Costs.

(2) An intervening party shall be liable for or entitled to costs like any other party to the proceedings. 3-4 Geo. V. c. 43, s. 172.

Mode of
trial.

173.—(1) The Judge or Master in Chambers shall, in a summary manner, without formal pleadings, hear and deter-

mine the questions raised by or upon the motion, and, subject to subsection 2, may inquire into the facts on affidavit, by oral testimony, or by an issue framed by him and sent to be tried by a jury in any Court named by him, or by one or more of those means.

(2) Where a question is raised as to whether the candidate or any voter has been guilty of any violation of sections 187 to 189, affidavit evidence shall not be used to prove the offence but it shall be proved by oral evidence taken before the Judge or before a special examiner or a Judge of a County or District Court, upon an order of reference to him for that purpose by the Judge of the Supreme Court, if the motion is returnable before a Judge of the Supreme Court, or before the Master in Chambers or the Judge of the County or District Court if the motion is returnable before him.

Evidence of corrupt practice to be taken orally.

(3) Where the seat is claimed for any person, if a candidate is proved to have been guilty, himself or by any person on his behalf, of bribery or of a corrupt practice with respect to a voter who voted at the election, or if a voter who is employed on behalf of such candidate and is disqualified under subsection 1 of section 61 is proved to have voted, there shall be struck off the number of votes given for such candidate one vote for every such voter. 3-4 Geo. V. c. 43, s. 173.

Striking off votes.

174.—(1) Where the election complained of is adjudged to be invalid, the order shall provide that the person found not have been duly elected be removed from the office, and if it is determined that any other person was duly elected that he be admitted forthwith to the office.

If election invalid, order for removal from office of person unduly elected, etc.

(2) Where it is determined that no other person was duly elected, or that a person duly elected has become disqualified or has forfeited his seat, the order shall provide for the removal from office of such last mentioned person and, except as provided by section 157, for the holding of a new election. 3-4 Geo. V. c. 43, s. 174.

Order for new election.

175. Where the election of all the members of a council is adjudged to be invalid, or where it is determined that all of them have become disqualified or have forfeited their seats, the order for their removal, and for the election of new members in their places or for the admission of others adjudged to be legally elected, and for an election to fill the remaining seats in the council, shall be directed to the clerk of the Municipality or where there is no clerk to the sheriff of the county or district in which the municipality is situate, who shall have all the powers for causing the election to be held which a municipal council or any member or officer of it has in order to fill a vacancy in it. 3-4 Geo. V. c. 43, s. 175.

Order for new election to be directed to sheriff.

Where election declared invalid owing to refusal to permit qualified persons to vote.

176.—(1) Where an election is adjudged to be invalid owing to the improper refusal of the returning officer or of a deputy returning officer to receive a ballot paper tendered by or to give a ballot paper to an elector, or owing to such officer having put into the ballot box a ballot paper which was not lawfully received from an elector, the Judge or Master in Chambers may order that the costs of the proceedings to unseat the person declared elected, or any part of them, be paid by such returning officer or deputy returning officer.

Right of action against officers preserved.

(2) Nothing in this section shall affect any right of action against the returning officer or deputy returning officer or relieve him from any penalty to which he may be liable under this Act. 3-4 Geo. V. c. 43, s. 176.

Order.

177.—(1) After the adjudication an order shall be drawn up stating concisely the ground and effect of the decision.

Amendment of order.

(2) The order may be at any time amended by the Judge or Master in Chambers in any matter of form, and shall have the same force and effect as a writ of mandamus formerly had in the like case. 3-4 Geo. V. c. 43, s. 177.

Judgment to be returned to proper officer of court.

178. The Judge or Master in Chambers forthwith after rendering his decision shall return the same with all things had before him touching the proceeding, to the proper officer of the Court, there to remain of record as a judgment of the Court; and the judgment may be enforced for the costs awarded by execution and in other respects in the same manner as an order of mandamus. 3-4 Geo. V. c. 43, s. 178.

Appeals from Master in Chambers or County Judge.

179.—(1) The decision of a Judge of the Supreme Court shall be final, but an appeal shall lie from the decision or order of the Master in Chambers or of a Judge of a County or District Court to a Judge of the Supreme Court whose decision shall be final.

Procedure on appeal.

(2) The practice and procedure on and in relation to the appeal shall be the same, as nearly as may be, as in the case of an appeal from a decision of the Master in Chambers in an action or proceeding in the Supreme Court. 3-4 Geo. V. c. 43, s. 179.

Disqualification of candidate guilty of corrupt practice.

180.—(1) A candidate elected who is found to have been guilty of bribery, or of a corrupt practice, shall forfeit his seat, and shall be ineligible as a candidate at any election for two years thereafter.

Report to be made to clerk.

(2) The Judge or Master in Chambers shall report to the Clerk of the Municipality in which the offence was committed the name of every candidate who has been so found guilty, and the clerk shall enter his name in a book to be kept for that purpose. 3-4 Geo. V. c. 43, s. 180.

Disclaimer.

181.—(1) Any person elected may at any time after the election, and before it is complained of, deliver to the clerk of the municipality a disclaimer signed by him, to the effect following: Disclaimer before election complained of.

*“I, A.B., hereby disclaim all right to the office of
for the _____ of
_____, in the county (or
district) of _____, and all defence of any right I
may have to the same.
Dated _____ day of _____, 19____;
A.B.”*

3-4 Geo. V. c. 43, s. 181.

182. A person whose election is complained of, unless it is complained of on the ground of bribery or corrupt practices on his part, or a person whose seat is attacked on the ground that he has become disqualified or has forfeited his seat, may, within one week after service on him of the notice of motion, transmit by registered post, or deliver, if the proceedings are in the Supreme Court, to the Clerk in Chambers, at Osgoode Hall, Toronto, or if the proceedings are in a County or District Court to the Judge of that Court, and to the relator or his solicitor, a disclaimer signed by him to the effect following:— When defendant may disclaim.

*“I, A.B., upon whom a notice of motion, in the nature of a quo warranto has been served for the purpose of contesting my right to the office of
for the _____ of _____, in the county (or
district) of _____, hereby disclaim the said
office, and all defence of any right I may have to the
same.
Dated _____ day of _____, 19____;
A.B.”*

3-4 Geo. V. c. 43, s. 182.

183. A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council. 3-4 Geo. V. c. 43, s. 183. Duplicate of disclaimer to be delivered to clerk.

184.—(1) A disclaimer in accordance with section 181 or 182 shall operate as a resignation. Disclaimer to operate as resignation.

(2) A disclaimer in accordance with section 181 shall relieve the person making it from all liability for costs. Costs.

(3) Costs shall not be awarded against a person disclaiming under section 182 unless he consented to his nomination or accepted the office. 3-4 Geo. V. c. 43, s. 184. When costs not to be awarded.

RULES OF PRACTICE.

Judges to
make rules,
etc.

185. The Judges of the Supreme Court may make rules regulating the practice and procedure in relation to proceedings under this Part, including the costs of and incidental to them, and as to matters not provided for in it, or by Rules of Court, the practice and procedure of the Supreme Court shall be applicable. 3-4 Geo. V. c. 43, s. 185.

Procedure
substituted
for quo
warranto
proceedings.

186. Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, whether or not the seat is claimed by or on behalf of the relator or any other person, and proceedings to have the right of a person to sit in a council determined shall be had and taken under the provisions of this Part and not by *quo warranto* proceedings or by an action in any court. 3-4 Geo. V. c. 43, s. 186.

PART V.

BRIBERY AND CORRUPT PRACTICES.

Bribery—
who guilty
of.
Bribing
voter or
procuring
bribery by
money.

187.—(1) Every person who:—

(a) Directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure, or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote, or refrain from voting or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or

By gift or
offer or
promise of
employ-
ment.

(b) Directly or indirectly, himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any voter, or to or for any other person in order to induce any voter to vote, or refrain from voting or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or

To induce
anyone to
procure
return of
candidate
or endeavor
to procure.

(c) Directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any voter at an election; or

- (d) Upon or in consequence of any such gift, loan, offer, ^{Receiving} promise, procurement or agreement, ^{bribe to pro-} procures or ^{vide return} engages, promises or endeavours to procure the ^{of candidate.} return of any candidate, or the vote of any voter at an election; or
- (e) Advances or pays, or causes to be paid, money to or ^{Advancing} to the use of any other person, with the intent ^{money to be} that such money or any part of it shall be ^{spent in} ~~ex-~~ ^{corrupt} ~~corrupt~~ ^{practices.} practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or
- (f) Directly or indirectly, himself or by any other person on his behalf, on account of, and as payme ^{Applying} ~~nt~~ ^{for money} for voting or for having voted, or for illegally ^{or employ-} agreeing or having agreed to vote for any candi- ^{ment in} ~~date~~ ^{considera-} ~~at an election, or on account of, and as pay-~~ ^{tion of} ~~ment for having illegally assisted or agreed to~~ ^{voting.} assist any candidate at an election, applies to such candidate, or to his agent, for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or
- (g) Before or during an election, directly or indirectly, himself or by any other person on his behalf, ^{Receiving} receives, agrees or contracts for any money, gift, ^{money,} loan or valuable consideration, ^{office, etc.,} office, place or ^{for having} employment, for himself or any other person, for ^{voted.} voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or
- (h) After an election, directly or indirectly, himself or ^{Receiving} by any other person on his behalf, ^{money cor-} receives any ^{ruptly after} money or valuable consideration for having voted ^{election.} or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or
- (i) In order to induce a person to allow himself to be ^{Giving or} nominated as a candidate, or to refrain from ^{promising} becoming a candidate, or to withdraw if he has ^{office to in-} become a candidate, gives or procures any office, ^{duce candi-} place or employment, or agrees to give or procure ^{date to} or offers or promises to procure, or endeavours to ^{stand or} procure any office, place or employment for such ^{withdraw.} person, or for any other person,

shall be guilty of bribery, shall be disqualified from voting ^{Penalty.} at any election for two years, and shall incur a penalty of

\$200, and shall also be liable to imprisonment for any term not exceeding six months.

Personal
expenses of
candidates.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate or any agent in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. 3-4 Geo. V. c. 43, s. 187.

Conveying
voters to
poll.

188.—(1) A candidate who himself or by any other person on his behalf and every other person who:—

(a) Hires or promises to pay or pays for a conveyance to carry a voter to or near or from or on the way to or from a polling place; or

(b) Pays the travelling or other expenses of a voter in going to or returning from a polling place;

and every person who for a valuable consideration provides or furnishes a conveyance knowing that it is to be used to carry a voter other than the hirer to, or near, or from, or on the way to or from a polling place shall be guilty of a corrupt practice and shall incur a penalty of \$100, and, if a voter, shall be disqualified from voting at the election; but this subsection shall not apply to the carrying of voters to the poll in a conveyance used by the candidate personally on polling day.

Furnishing
transporta-
tion to
voters.

(2) Every person who provides or furnishes transportation free of charge or at a diminished rate to a voter to, or near, or from, or on the way to or from a polling place, and whether passes or tickets or the like are or are not supplied, shall be guilty of a corrupt practice and shall incur a penalty of \$100, and, if a voter, shall be disqualified from voting at the election.

“Convey-
ance,”
meaning of.

(3) “Conveyance,” for the purposes of this section, shall include a horse, team, carriage, cab, vehicle, boat or vessel. 3-4 Geo. V. c. 43, s. 188.

Undue
influence.

189.—(1) Every person who, directly or indirectly, himself, or by any other person on his behalf, uses or threatens to use force, violence, or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practises intimidation upon or against a voter in order to induce or compel him to vote, or refrain from voting, or on account of his having voted or refrained from voting, or who, by abduction, duress, or false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, induces or prevails upon a voter to vote or refrain from

voting, shall be guilty of a corrupt practice and shall be disqualified from voting for two years and shall incur a penalty of \$200, and shall also be liable to imprisonment for any term not exceeding one year. Penalty.

(2) It shall be a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret. Pretence that ballot not secret. 3-4 Geo. V. c. 43, s. 189.

190. The clerk shall furnish every deputy returning officer with at least two copies of sections 187 to 189, and the deputy returning officer shall post the same in conspicuous places at the polling place. Posting of provisions as to corrupt practices. 3-4 Geo. V. c. 43, s. 190.

191.—(1) No person shall be excused from answering any question put to him in an action or proceeding touching or concerning an election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer will tend to criminate him, or subject him to any penalty under this Act. Witnesses not excused from answering on grounds of privilege, etc.

(2) No answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate him or subject him to any penalty under this Act, shall be used in any proceeding thereunder against such person, if the Judge or officer before whom he is examined gives to the witness a certificate that he claimed the right to be excused on either of such grounds, and made full and true answer, to the satisfaction of the Judge. Answers of witness not to be used against him if judge gives certificate. 3-4 Geo. V. c. 43, s. 191.

When no penalty recoverable.

192. No pecuniary penalty shall be recoverable for bribery or a corrupt practice if it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the offence; but this provision shall not apply if the Judge before whom the person claiming the benefit of it is charged, certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence, and that he was in fact the principal offender. When penalty for corrupt practice not to be recoverable. 3-4 Geo. V. c. 43, s. 192.

PART VI.

MEETINGS OF MUNICIPAL COUNCILS.

First Meeting of Council.

First meet-
ing of
council.

193.—(1) The first meeting of every council, except a county council, shall be held on the second Monday in January of the year for which the council is elected, at eleven o'clock in the forenoon; and the first meeting of every county council shall be held on the fourth Tuesday of the same month, at two o'clock in the afternoon.

Declarations
of office
before
business.

(2) No business shall be proceeded with at the first meeting until after the declarations of office and qualification have been made by all the members who present themselves for that purpose.

When coun-
cil deemed
organized.

(3) A council shall be deemed to be organized within the meaning of this Act when the declarations of office and qualification have been made by a majority of the members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations. 3-4 Geo. V. c. 43, s. 193.

Certificate
of election.

194. A member of a county council shall not take his seat until he has filed with the clerk of the county council a certificate, Form 15, under the hand of the clerk of the municipality for which he was elected and the seal of the corporation. 3-4 Geo. V. c. 43, s. 194.

Warden,
election of.

195.—(1) In each year at the first meeting of a county council at which a majority of all the members is present they shall organize as a council and elect one of the members to be warden.

Clerk to
preside.

(2) The clerk shall preside, or if there is no clerk the members present shall select a member to preside, and the person so elected may vote as a member.

Conduct of
election.

(3) Subject to subsection 4 and to section 206 the warden shall be elected in the manner provided by resolution of the council passed prior to the election.

Case of
equality of
votes.

(4) In case of an equality of votes the reeve, or in his absence the deputy reeve, or if there are more deputy Reeves than one the first deputy reeve, of the municipality which for the preceding year had the largest equalized assessment, shall have a second or casting vote. 3-4 Geo. V. c. 43, s. 195.

Place of Meeting.

196. The first meeting of a county council shall be held at the county hall if there is one, and if there is none, at the court house. 3-4 Geo. V. c. 43, s. 196.

Place of first meeting of county council.

197. The subsequent meetings of the county council, and all meetings of every other council shall be held at such place as the council from time to time appoints. 3-4 Geo. V. c. 43, s. 197.

Subsequent meetings.

198.—(1) The council of a county in which an urban municipality lies may hold its meetings, keep its public offices and transact all the business of the corporation and of its officers and servants within such municipality, and may acquire or rent and hold such real estate therein and erect such buildings thereon as may be convenient for such purpose.

Location of county and township offices.

(2) The council of a township shall have the like power in respect of an adjacent urban municipality or township in the same county. 3-4 Geo. V. c. 43, s. 198.

199.—(1) The ordinary meetings of every council shall be open, and no person shall be excluded therefrom except for improper conduct.

Ordinary meetings to be open.

(2) The head or other presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at such meeting. 3-4 Geo. V. c. 43, s. 199.

Exclusion of certain persons.

200.—(1) A majority of the whole number of members required to constitute a council shall be necessary to form a quorum.

Quorum

(2) Where a council consists of only five members, the concurrent votes of at least three of them shall be necessary to carry any resolution or other measure. 3-4 Geo. V. c. 43, s. 200.

Where council consists of five members.

201.—(1) The head of the council shall preside at all meetings, and may at any time summon a special meeting; and it shall be his duty to do so when requested in writing by a majority of the members.

Head of council to preside.

(2) In the absence of the head of the council or if his office is vacant, a special meeting may be summoned by the clerk upon a requisition signed by a majority of the members. 3-4 Geo. V. c. 43, s. 201.

Special meetings.

202. If there is no by-law or resolution fixing the place of meeting, a special meeting shall be held at the place where the then last meeting was held, and a special meeting may be either open or closed as in the opinion of the council expressed by resolution in writing the public interest requires. 3-4 Geo. V. c. 43, s. 202.

Place of special meeting.

Appointment
of presiding
officer in
absence of
head.

203. In the absence of the head of the council, or if his office is vacant, the council may, from among the members, appoint a presiding officer, who during such absence or vacancy shall have all the powers of the head of the council 3-4 Geo. V. c. 43, s. 203.

Casual
absence of
presiding
officer.

204. If the person who ought to preside at any meeting does not attend within fifteen minutes after the hour appointed, the members present may appoint a presiding officer from among themselves, and he shall have the same authority as the absent person would have had if present. 3-4 Geo. V. c. 43, s. 204.

Head or
presiding
officer may
vote.

Equality
of votes to
negative
question.

205. The head of the council, or the presiding officer, except where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions; and, except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived. 3-4 Geo. V. c. 43, s. 205.

Voting to
be open
and to be
recorded.

206.—(1) Where a division is taken upon the election of a warden or other presiding officer, upon the appointment of an officer of the corporation or upon a by-law, resolution or for any other purpose, each member present shall announce his vote openly and individually, and the clerk shall record it.

No vote
by ballot.

(2) No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken shall be of no effect. 3-4 Geo. V. c. 43, s. 206.

Prohibition
as to member
voting to
appoint him-
self to office.

207. No member of a council shall vote on any by-law appointing him to any office in the gift of the council or fixing or providing his remuneration for any service to the corporation; but this shall not apply to allowances for attendance at meetings of the council or its committees. 3-4 Geo. V. c. 43, s. 207.

Adjourn-
ment.

208. A council may adjourn its meetings from time to time. 3-4 Geo. V. c. 43, s. 208.

PART VII.

BOARDS OF CONTROL.

Board of
Control in
City of
Toronto.

209.—(1) There shall be a Board of Control for the City of Toronto consisting of the Mayor and four controllers to be elected by general vote.

Salary.

(2) The council may by by-law fix the salaries of the members of the board, not exceeding for each member \$2,500 per annum. 3-4 Geo. V. c. 43, s. 209.

210.—(1) The council of any city having a population of less than 100,000, but more than 45,000, may by by-law provide for the election by general vote of four controllers, who with the Mayor shall constitute the Board of Control. Board of Control in cities over 45,000 and under 100,000.

(2) The by-law shall not, nor shall a by-law repealing it, be passed until it has received the assent of the municipal electors. Assent of electors required.

(3) The council may by by-law fix the salaries of the members of the board, not exceeding for each member \$1,500 per annum. 3-4 Geo. V. c. 43, s. 210. Salary.

211. During the absence of the Mayor or if there is a vacancy in the office the person appointed as presiding officer of the council shall act as a member of the Board. 3-4 Geo. V. c. 43, s. 211. Presiding officer to act in absence of mayor.

212.—(1) Three members of a Board of Control shall form a quorum, and the Mayor shall preside at the meetings of the board, and in his absence the members shall appoint one of their number to preside. Quorum. Mayor to preside.

(2) If a vacancy occurs in the office of controller the council, at a meeting called for that purpose, shall elect a person to fill the vacancy for the unexpired term of the member whose seat has become vacant. 3-4 Geo. V. c. 43, s. 212. Filling vacancies.

213.—(1) It shall be the duty of the Board of Control: Duties of Board.

(a) To prepare an estimate of the proposed expenditure of the year and certify it to the council for its consideration. To prepare estimates.

(b) To prepare specifications for and award all contracts and for that purpose to call for all tenders for works, material and supplies, implements, machinery, or other goods or property required and which may lawfully be purchased for the use of the corporation, and to report its action to the council at its next meeting. To award contracts.

(c) To inspect and report to the council monthly or oftener upon all municipal works being carried on or in progress. To inspect municipal works.

(d) To nominate to the council all heads of departments and sub-departments in case of a vacancy and, after a favourable report by the head of the department, any other officer of the corporation required to be appointed by by-law or resolution of the council, and any other permanent officers, clerks or assistants, and to recommend the salaries of all officers and clerks. To nominate officers of corporation.

To suspend
or dismiss.

(e) To dismiss or suspend any head of a department and forthwith to report such dismissal or suspension to the council.

Estimates
of Board to
bind council
except on
two-thirds
vote.

(2) The council shall not appropriate or expend, nor shall any officer thereof expend or direct the expenditure of any sum not provided for by the estimates or by a special or supplementary estimate certified by the board to the council, without a two-thirds vote of the council authorizing such appropriation or expenditure, but this prohibition shall not extend to the payment of any debenture or other debt or liability of the corporation.

Head of
department
to be present
when tend-
ers are
opened.

(3) When opening tenders the board shall require the presence of the head of the department or sub-department with which the subject matter of them is connected, and when requisite the presence of the city solicitor.

Discussion
as to tenders.

(4) The head of such department or sub-department may take part in any discussion at the board relating to the tenders.

Reversal by
council by
action of
board.

(5) The council shall not, without a two-thirds vote, reverse or vary the action of the board in respect of the tenders, when the effect of such vote would be to increase the cost of the work or to award the contract to a tenderer other than the one to whom the board has awarded it.

Appointment
of head of
department
on nomina-
tion of
board.

(6) No head of a department or sub-department or other permanent officer, clerk or assistant shall be appointed or selected by the council in the absence of the nomination of the board as provided by clause (d) of subsection 1, without a two-thirds vote.

Two-third
vote of
council to
reinstate
head of
department
dismissed.
Controlling
appointment
and duties
of subordin-
ate officers.

(7) Where a head of a department has been dismissed by the board, he shall not be reappointed or reinstated by the council without a two-thirds vote.

(8) In the absence of a by-law of the council prescribing the mode of appointing, engaging or employing any officers, clerks, assistants, employees, servants and workmen not included in clauses (d) and (e) of subsection 1, the board may direct by whom and in what manner they shall be appointed, engaged or employed.

Submission
of by-laws,
etc.

(9) The board may submit proposed by-laws to the council.

Amalgama-
tion of
departments.

(10) The board, where in its opinion it is desirable, may amalgamate departments or sub-departments.

Secretary
of Board.

(11) The board may appoint a secretary or clerk who shall keep minutes of its proceedings, prepare its reports and perform such other duties as may be assigned to him by the board or by the mayor or the council.

Other duties
assigned by
council.

(12) The council may by by-law or resolution assign to the board such other duties as the council may deem proper.

(13) The board, when so required by resolution of the council, and upon one week's notice thereof, shall furnish to the council copies of the minutes of its proceedings and any other information in its possession which the council may require.

Copies of minutes, when to be furnished to council.

(14) The council may refer back to the board any report, nomination, question or matter for reconsideration.

Referring back matter for reconsideration.

(15) Where it is sought in council to reverse, set aside or vary the action of the board, or where a two-thirds vote is required, the vote by yeas and nays shall be recorded in the minutes of the council.

Recording votes on action of board.

(16) The public, the high and separate school boards, the board of education, the board of commissioners of police and the public library board and every other board whose estimates are to be provided for, shall furnish to the board on or before the first day of March in each year their annual estimates.

School Boards to send in estimates.

(17) Clause (d) of subsection 1 shall not apply to a member of the fire department, except the head of it, or to an assessor, except the assessment commissioner, or to a representative of the council upon the board of a harbour trust, or of a corporation on the board of which the council is entitled to elect a representative, or to a member of the Court of Revision.

Certain officers not to be nominated by Board.

(18) Nothing in this section shall deprive a head of a department of the power which he possessed on the 7th day of April, 1896, under any by-law or otherwise, to dismiss any subordinate officer, clerk or employee.

Powers of head of department before 7th April, 1896.

(19) Notwithstanding anything in this Act, the duties assigned to the board shall be discharged exclusively by the board, except in the case mentioned in subsection 9. 3-4 Geo. V. c. 43, s. 213.

Exclusive rights of Board.

PART VIII.

OFFICERS OF MUNICIPAL CORPORATIONS.

THE HEAD.

214. The warden of a county, the mayor of a city or town, and the reeve of a village or township, shall be the head of the council and the chief executive officer of the corporation. 3-4 Geo. V. c. 43, s. 214.

Who to be head of council.

215. It shall be the duty of the head of the council to,

Duties of head of council.

(a) Be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed;

- (b) Oversee the conduct of all subordinate officers in the government of it and, as far as practicable, cause all negligence, carelessness and violation of duty to be prosecuted and punished; and
- (c) Communicate from time to time to the council such information, and recommend to it such measures as may tend to the improvement of the finances, health, security, cleanliness, comfort and ornament of the municipality. 3-4 Geo. V. c. 43, s. 215.

Remuneration of head.

216. The head of the council of a county and of an urban municipality may be paid such annual or other remuneration as the council may determine. 3-4 Geo. V. c. 43, s. 216.

Mayor may call out *posse comitatus*.

217. The mayor of a city or town may call out the *posse comitatus* to enforce the law within the municipality under the same circumstances in which the sheriff of a county may now by law do so. 3-4 Geo. V. c. 43, s. 217.

THE CLERK.

Appointment of clerk, and his duties.

218. Every council shall appoint a clerk, whose duty it shall be:

- (a) To truly record in a book, without note or comment, all resolutions, decisions and other proceedings of the council;
- (b) If required by any member present, to record the name and vote of every member voting on any matter or question;
- (c) To keep the books, records and accounts of the council;
- (d) To preserve and file all accounts acted upon by the council;
- (e) To keep in his office or in the place appointed for that purpose, the originals of all by-laws, and of all minutes of the proceedings of the council; and
- (f) To perform such other duties as may be assigned to him by the council. 3-4 Geo. V. c. 43, s. 218.

Minutes, etc., to be open to inspection.

Copies to be furnished, and charges therefor, etc.

219.—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents mentioned in the next preceding section and the minutes and proceedings of any committee of the council, whether the acts of the committee have been adopted or not, and the assessment rolls, voters' lists, poll books, and other documents in the possession or under the control of the clerk, and the clerk shall, within a reasonable time, furnish copies of them, certified under his hand and the seal of the corporation, to any appli-

cant on payment at the rate of ten cents for every hundred words, or at such lower rate as the council may fix.

(2) A copy of any record, book or document in the possession or under the control of the clerk purporting to be certified under his hand and the seal of the corporation, may be filed and used in any Court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the Court otherwise directs. 3-4 Geo. V. c. 43, s. 219.

Documents certified by clerk to be receivable in evidence.

220. Where the clerk is absent or incapable through illness of performing his duties, the council may by resolution provide that some other person, to be named in the resolution or to be appointed under the hand of the clerk, shall act in his stead and the person so appointed shall have all the powers of the clerk. 3-4 Geo. V. c. 43, s. 220.

Provision for absence, etc., of clerk.

221.—(1) The clerk of every local municipality shall in each year, within one week after the final revision of the assessment roll, make a return to the Secretary of the Bureau of Industries, on forms approved by the Lieutenant-Governor in Council and furnished by the secretary, of such statistics or information as the assessment roll or other records of his office afford, and the forms call for; and every such return shall be transmitted by registered post.

Returns to be made to Bureau of Industries.

(2) For every contravention of this section, the clerk shall incur a penalty not exceeding \$40.

Penalty.

(3) The secretary shall cause to be prepared a tabulated statement of the returns which the Minister of Agriculture shall lay before the Assembly. 3-4 Geo. V. c. 43, s. 221.

Return to Assembly.

THE TREASURER.

222.—(1) Every council shall appoint a treasurer, who may be paid either by salary or by a percentage, and may also appoint a deputy treasurer to act in the absence of the treasurer or in case of a vacancy in the office.

Treasurer to be appointed.

(2) The treasurer and the deputy treasurer, before entering on the duties of their offices, shall give such security as the council directs for the faithful performance of such duties, and for duly accounting for and paying over all money which comes into their hands.

To give security.

(3) It shall be the duty of every council, in every year, to inquire into the sufficiency of the security given by the treasurer, and to cause to be entered in its minutes the result of the inquiry: 3-4 Geo. V. c. 43, s. 222.

Annual inquiry as to sufficiency.

223.—(1) In case of the death of the treasurer of a county, the warden may, by warrant under his hand, appoint for such special purpose as he may deem necessary, a

Appointment of county treasurer pro tem.

treasurer *pro tempore*, who shall hold office until the next meeting of the council; and all acts authorized by the warrant which are performed by him shall be as valid and binding as if performed by a treasurer.

Security to
be given by.

(2) The warden shall, by the warrant, direct what security shall be given by the treasurer *pro tempore* for the faithful performance of his duties, and for duly accounting for, and paying over, all money which comes into his hands, and before entering upon his duties he shall give such security, but he shall not interfere with the books, vouchers or accounts of the deceased treasurer until a proper audit of them has been made. 3-4 Geo. V. c. 43, s. 223.

To receive
and take
care of and
disburse
money, etc.

224.—(1) The treasurer shall receive, and safely keep, all money of the corporation, and shall pay out the same to such persons and in such manner as the laws of Ontario and the by-laws or resolutions of the council direct.

When
member of
council
may be
paid for
work.

(2) Except where otherwise expressly provided by this Act, a member of the council shall not receive any money from the treasurer for any work or service performed or to be performed.

His liability
limited.

(3) The treasurer shall not be liable for money paid by him in accordance with a by-law or resolution of the council unless another disposition of it is expressly provided for by statute. 3-4 Geo. V. c. 43, s. 224.

Treasurer
to open
account
in name of
corporation.

225. The treasurer shall open an account in the name of the corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved of by the council, and shall deposit to the credit of such account all money received by him on account of the corporation, and he shall keep the money of the corporation entirely separate from his own money. 3-4 Geo. V. c. 43, s. 225.

Half-yearly
statement
of assets.

226. Every treasurer shall prepare and submit to the council, half-yearly, a statement of the money at the credit of the corporation; and in local municipalities which have passed by-laws requiring it to be done shall, on or before the 20th day of December in each year, prepare and transmit to the clerk a list of all persons who have not paid their municipal taxes on or before the 14th day of that month. 3-4 Geo. V. c. 43, s. 226.

Annual list
of persons
in default
for taxes.

Returns to
be made to
Bureau of
Industries.

227.—(1) The treasurer of every local municipality shall, on or before the first day of April in each year, transmit by registered post to the Secretary of the Bureau of Industries, on forms approved by the Lieutenant-Governor in Council and furnished by the secretary, such information or statistics regarding the finances or accounts of the corporation as the forms call for.

(2) For every contravention of this section the treasurer shall incur a penalty not exceeding \$40. Penalty.

(3) The Secretary shall cause to be prepared a tabulated statement of the returns, which the Minister of Agriculture shall lay before the Assembly. 3-4 Geo. V. c. 43, s. 227. Tabulated statement of returns.

228.—(1) Every Treasurer, on or before the 7th day of January in each year, shall transmit by registered post to the head of every municipality to whose treasurer he has made any payment during the year ended on the 31st day of the next preceding December, a statement signed by him setting forth every such payment and the date of it. Treasurer making payments to other municipalities to send statements to head.

(2) The head of the municipality shall cause every such statement received by him to be read at the next meeting of the council after the receipt of it, and to be delivered to the auditors before the audit of the accounts for the year to which the statement relates. 3-4 Geo. V. c. 43, s. 228. Statements to be read to council and delivered to auditors.

229. Where a treasurer is removed from office, or absconds, the council shall forthwith give notice to his sureties, and his successor may draw any money of the corporation which may have been deposited by the treasurer to his credit. 3-4 Geo. V. c. 43, s. 229. Provision on dismissal from office.

ASSESSORS AND COLLECTORS.

230.—(1) The council of every local municipality shall annually appoint as many assessors and collectors for the municipality as may be deemed necessary. Assessors and collectors, appointment of.

(2) The appointment shall be made as soon as practicable after the organization of the council. When appointments to be made.

(3) The council may assign to an assessor or collector the district within which he is to act, and may make regulations for governing him in the performance of his duties. Regulations as to duties of.

(4) In a city, town or township the same person may be appointed assessor or collector for more than one ward or polling subdivision. Extent of jurisdiction.

(5) A member of the council or the clerk or treasurer of the municipality shall not be appointed assessor or collector. Who not to be assessor or collector.

(6) The collector of a municipality, the council of which has passed a by-law requiring the taxes to be paid on or before the 14th day of December, shall, on the 15th day of December in each year, return, upon oath, to the treasurer the names of all persons who have not paid their taxes. 3-4 Geo. V. c. 43, s. 230. Returns as to tax defaulters.

231.—(1) The council of a city or town, instead of appointing assessors, may appoint an assessment commissioner, who, in conjunction with the mayor, shall appoint such Assessment Commissioner in cities and towns.

assessors as may be necessary, and the assessment commissioner and the assessor shall constitute a board of assessors, and shall have all the powers and perform all the duties of assessors appointed under the next preceding section.

Duties of,
in certain
cities and
towns.

(2) The council of a city or town, having a population of less than 20,000, may provide that all the duties of an assessor shall be performed by the assessment commissioner, and in that case it shall not be necessary to appoint assessors.

Tenure of
office.

(3) It shall not be necessary to appoint the assessment commissioner, assessors or collectors of a city annually.

Notices.

(4) In a city or town which has an assessment commissioner, all notices in matters relating to assessment which in other municipalities are required by this or any other Act to be given to the clerk shall be given to the assessment commissioner.

AUDITORS AND AUDIT.

Auditors.

232.—(1) Subject to sections 233 and 240, every council shall, at its first meeting in every year, appoint two auditors.

Disqualifica-
tion for
office of.

(2) No person who is or during the next preceding year was a member of the council, or the clerk or treasurer of the municipality, or who has, or during the next preceding year had, directly or indirectly, alone or in conjunction with any other person, a share or interest in any contract or employment with or on behalf of the corporation, except as auditor, shall be appointed an auditor.

Case of
county
auditor
refusing
to act.

(3) If a person appointed auditor for a county refuses, or is unable to act, the head of the council shall appoint another person not in the employment of such head to be auditor in his stead. 3-4 Geo. V. c. 43, s. 232.

Appointment
of auditors
in November
or December.

233. The council of any municipality may provide that the auditors shall be appointed in November or December in each year for the next succeeding year, and thereafter while the by-law remains in force the council shall appoint the auditors in accordance with its terms, instead of at its first meeting. 3-4 Geo. V. c. 43, s. 233.

Duty of
auditors.

234.—(1) The auditors appointed under section 233 shall, at the end of every month, beginning with the first month in the year following that of their appointment, examine and report upon all accounts affecting the corporation, or relating to any matter under its control, or within its jurisdiction, and after the examination of every account, voucher, receipt and paid debenture submitted for audit, shall stamp on it, in indelible letters, the word "audited," and initial it.

(2) The auditors appointed under section 233 shall also perform the duties of auditors appointed under section 232 with respect to the accounts and transactions of the year in which they are appointed. 3-4 Geo. V. c. 43, s. 234.

235. An auditor may administer an oath to any person concerning any account or other matter to be audited. Auditors may administer oaths.
3-4 Geo. V. c. 43, s. 235.

236. Where an auditor of a city dies, or resigns, or his office becomes vacant from any cause, the council may fill the vacancy, and the person appointed shall hold office for the remainder of the year for which the original appointment was made. Filling vacancies.
3-4 Geo. V. c. 43, s. 236.

237.—(1) The auditors appointed under section 232 shall examine and report upon all accounts affecting the corporation or any commission managing a public utility work or relating to any matter under its control or within its jurisdiction for the year ended on the 31st day of December preceding their appointment. Duties of auditors.

(2) They shall annually prepare in duplicate an abstract of the receipts, expenditure, assets and liabilities of the corporation or commission and a detailed statement in duplicate of the same for the next preceding year in such form as the council may direct, and shall report on all accounts audited by them, and make a special report of any expenditure made contrary to law, and shall transmit by registered post one copy of the abstract and one copy of the detailed statement to the Secretary of the Bureau of Industries, and shall file the other abstract, the other detailed statement, and their reports, in the office of the clerk not later than the 1st day of March. To prepare abstract and detailed statement of receipts and expenditure, etc.

(3) Where the auditors are appointed under section 233, or where they have been required to make their audit under the provisions of section 240, the abstract, statements, and reports mentioned in subsection 2, shall be, with respect to the year for which they are appointed, and shall be made and filed within one month after the expiry of that year, and the auditors shall be deemed to continue in office during that period for the purpose only of preparing and filing such statements and reports.

(4) For every contravention of subsection 2 or 3 an auditor shall incur a penalty not exceeding \$40. Penalty.

(5) A resident of the municipality may inspect the abstract, statements and reports at all reasonable hours, and may, by himself or his agent, at his own expense, make a copy of or extracts from them. Inspection of abstract, statement, etc.

(6) The auditors of every municipality shall also make a report upon the condition and sufficiency of the securities of the treasurer; and such report shall show what cash balance, if any, was due from the treasurer to the corporation at the date of the audit, and where it is deposited and what security there is that the same will be available when required; but this shall not relieve the council from the performance of the duty imposed by section 222. Report on treasurer's securities.

Clerk to publish abstracts and statements.

(7) The clerk shall publish the abstract, statements and reports in such form as the council may direct; and in the case of a local municipality shall transmit a copy of the abstract and statements to the clerk of the council of the county, and the same shall be kept in his office.

Inspection of books of bank or company.

(8) The auditors may make a written requisition upon the treasurer for a request to any bank or company with which the money is or has been deposited, or with which the treasurer has kept an account, to exhibit the account and details thereof to them; and it shall be the duty of the treasurer, within twenty-four hours after the delivery to him of such requisition, to comply with it.

Publication of statements of assets and liabilities.

(9) The council of every town, village and township shall hold a meeting on the 15th day of December in each year, and shall immediately thereafter publish a detailed statement of the receipts and expenditures of the corporation for the portion of the year ended on that day, together with a statement of assets, liabilities and uncollected taxes, and a similar statement respecting the last 15 days of the next preceding year.

Publication of statements.

(10) The statements shall be signed by the head of the council and by the treasurer, and shall be published.

Posting up statements.

(11) Instead of publishing the statements the council may cause them to be posted up, not later than the 24th day of December, in the office of the clerk and of the treasurer, at all post offices, and at not less than 12 other conspicuous places in the municipality.

Delivery of copies to electors.

(12) The clerk shall procure to be printed not less than one hundred copies of the statements, and shall deliver or transmit by post one of them to every elector who requests him to do so, not later than the 24th day of December in each year, and shall also see that copies of the statements are produced at the nomination meeting.

Subsections 9-12 not to apply to certain municipalities.

(13) The next preceding four subsections shall not apply to a township municipality in a provisional judicial district, or in the electoral district of North Renfrew, or in the Provisional County of Haliburton.

Making untrue entries in financial statement.

(14) A member of a council or an officer of a corporation, or any other person, who knowingly makes or causes or procures to be made, any untrue entry in the statements, or who knowingly omits or causes to be omitted from them anything which should be included, shall incur a penalty of not less than \$5 or more than \$40. 3-4 Geo. V. c. 43, s. 237.

Audit of accounts before payment.

238. The council of a city or town may provide that all accounts shall be audited before payment. 3-4 Geo. V. c. 43, s. 238.

The council to audit finally, etc.

239. The council shall, upon the report of the auditors, finally audit and allow the accounts of the treasurer and col-

lectors, and all accounts chargeable against the corporation; and where charges are not regulated by law, the council shall allow what is reasonable. 3-4 Geo. V. c. 43, s. 239.

240. Instead of appointing two auditors annually as provided by section 232, the council may by by-law provide for the appointment of one or more auditors to hold office during pleasure, who shall daily or otherwise examine, audit and report on the accounts of the corporation. 3-4 Geo. V. c. 43, s. 240. Auditors appointed as permanent officers

241. The Treasurer of Ontario shall retain in his hands any money payable to a corporation, if it is certified to him by the Secretary of the Bureau of Industries that any officer of the corporation whose duty it is to make returns to the Bureau has not done so. 3-4 Geo. V. c. 43, s. 241. Money payable by Province to be retained if returns not made.

DUTIES OF OFFICERS RESPECTING OATHS AND DECLARATIONS.

242.—(1) Every person elected as a member of the council of a township or as trustee of a police village, before he takes the declaration of office or enters upon his duties, shall make and subscribe a declaration of qualification, Form 2. Declaration of qualification.

(2) Every member of a council, trustee of a police village, every public utility commissioner and commissioner of industries, and every clerk, treasurer, assessment commissioner, assessor, collector, engineer, clerk of works and street overseer or commissioner, before entering on the duties of his office, shall also make and subscribe a declaration of office, Form 16. Declaration of office.

(3) Every person elected or appointed to two or more municipal offices may make one declaration of office as to all of them. Declaration of person appointed to more than one office.

(4) Every returning officer, deputy returning officer, poll clerk, constable and other election officer, before entering upon the duties of his office, shall make and subscribe a declaration, Form 17. Declaration of returning officers and others.

(5) Where by this Act any oath or declaration is required to be made by a deputy returning officer, or by a poll clerk, and no special provision is made therefor, the same, in the case of a deputy returning officer, may be made before the returning officer for the municipality or ward, or before the poll clerk, or before any person authorized to administer an oath; and, in the case of a poll clerk, before any such person, or before the deputy returning officer. Administration of oaths to deputy returning officers and poll clerks.

(6) Every auditor, before entering upon his duties, shall make and subscribe a declaration, Form 18. Auditor's declaration.

(7) Except where otherwise provided the person by whom the oath or declaration is made shall file the same in the office of the clerk within 8 days after it is made. 3-4 Geo. V. c. 43, s. 242. Filing of declaration.

Certain officers may administer certain oaths.

243. Except where otherwise expressly provided, in addition to the persons authorized by law to administer an oath, the head of a council, a controller, an alderman, a reeve or the clerk of a municipality may, within the municipality, administer an oath, or take any declaration under this Act or relating to the business of the corporation. 3-4 Geo. V. c. 43, s. 243.

Penalty for refusing to accept office or take declaration, etc.

244. Every qualified person duly elected to be a member of a council, a trustee of a police village, or a public utility commissioner, and every person appointed as assessment commissioner, commissioner of industries, assessor or collector, who refuses the office to which he has been elected or appointed, or does not, within twenty days after knowing of his election or appointment, make and file the declaration of office and in the case of a member of the council of a township or of a trustee of a police village, the declaration of qualification and every person authorized to take any such declaration, who, upon reasonable demand, refuses to take it, shall incur a penalty of not less than \$8 or more than \$80, which, when recovered, shall be paid over to the corporation. 3-4 Geo. V. c. 43, s. 244.

SALARIES, TENURE OF OFFICE AND GRATUITIES.

Salaries of officers.

245.—(1) Where the remuneration of any officer of a corporation is not fixed by law, the council shall fix it.

Remuneration of clerk for certain services. Rev. Stat. c. 260.

(2) The council shall give to the clerk, for services and duties performed by him, under *The Ditches and Water-courses Act*, a fair and reasonable remuneration, to be fixed by the council.

Fees for copies of awards, etc.

(3) The council shall fix the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by him, other than such as it is his duty to perform under that Act.

Remuneration not to be settled by tender.

(4) Where an appointment to an office or an arrangement for the discharge of the duties of an office is to be made the council shall not invite or require applicants to name a sum for which they will discharge the duties of the office, or give the appointment to, or make the arrangement with, the person who offers to perform the duties at the lowest salary or remuneration.

When municipality employing solicitor at a salary may recover costs.

(5) Notwithstanding that a corporation employs a solicitor or a counsel whose remuneration is wholly or partly paid by salary, annual or otherwise, the corporation shall have the right to recover and collect lawful costs in all actions and proceedings, in the same manner as if the solicitor or counsel was not so remunerated, if the costs are, by the terms of his employment, payable to the solicitor or counsel as part of his remuneration in addition to his salary. 3-4 Geo. V. c. 43, s. 245.

246. All officers appointed by a council shall hold office during the pleasure of the council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act, or by by-law of the council. 3-4 Geo. V. c. 43, s. 246.

247. A council may grant to any officer who has been in the service of the corporation for at least twenty years, and who, while in such service, has become incapable, through illness or old age, of efficiently discharging the duties of his office, a sum not exceeding the aggregate of his salary or other remuneration for the next preceding three years of his service, as a gratuity upon his ceasing to hold the office. 3-4 Geo. V. c. 43, s. 247.

INVESTIGATION OF CHARGES OF MALFEASANCE, ETC., OR JUDICIAL INQUIRY IN RELATION TO MUNICIPAL MATTERS.

248.—(1) Where the council of a municipality passes a resolution requesting a Judge of the County or District Court of the county or district in which the municipality is situate to investigate any matter relating to a supposed malfeasance or breach of trust, or other misconduct on the part of a member of the council, or an officer, or a servant of the corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, servant or other person, to the corporation, or to inquire into or concerning any matter connected with the good government of the municipality, or the conduct of any part of its public business, the Judge shall make the inquiry, and shall for that purpose have all the powers which may be conferred upon Commissioners under *The Public Inquiries Act*, and he shall, with all convenient speed, report to the council the result of the inquiry and the evidence taken.

(2) The Judge shall be paid by the corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under *The Judicature Act*.

(3) The council may engage and pay counsel to represent the corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel. 3-4 Geo. V. c. 43, s. 248.

PART IX.

GENERAL PROVISIONS APPLICABLE TO ALL MUNICIPALITIES.

JURISDICTION—NATURE AND EXTENT.

Jurisdiction
of councils.

249.—(1) Except where otherwise provided, the jurisdiction of every council shall be confined to the municipality which it represents and its powers shall be exercised by by-law.

By-law not
to be
quashed
because un-
reasonable.

(2) A by-law passed by a council in the exercise of any of the powers conferred by and in accordance with this Act, and in good faith, shall not be open to question or be quashed, set aside, or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. 3-4 Geo. V. c. 43, s. 249.

General
power to
make regu-
lations.

250. Every council may pass such by-laws and make such regulations for the health, safety, morality, and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act, as may be deemed expedient and are not contrary to law, and for governing the proceedings of the council, the conduct of its members and the calling of meetings. 3-4 Geo. V. c. 43, s. 250.

Council a
continuing
body.

251. Proceedings begun by one council may be continued and completed by a succeeding council. 3-4 Geo. V. c. 43, s. 251.

Certain acts
not to be
done by
councils
after 31st
December.

252. The council of a local municipality shall not, after the 31st day of December in the year for which its members were elected, pass any by-law or resolution for, or which involves, directly or indirectly, the payment of money, or enter into any contract or obligation on the part of the corporation, or appoint to or dismiss from office any officer under the control of the council, or do any other corporate act, except in case of extreme urgency, or unless the act is one which the council is required by law to do. 3-4 Geo. V. c. 43, s. 252.

Power to
license
includes
power to
prohibit.

253.—(1) The power to license any trade, calling, business or occupation or the person carrying on or engaged in it shall include the power to prohibit the carrying on of or the engaging in it without a license.

Who to fix
amount of
license fee.

(2) Except where the power of fixing the sum to be paid for the license is expressly conferred on a Board of Commissioners of Police, the Council of the Municipality, where by this or any other Act the Council or the Board is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it, may,

subject to the limitations contained in the Act, fix the sum to be paid for the license and the time for which it shall be in force and may provide for enforcing payment of the license fee.

(3) The license fee may be in the nature of a tax for the privilege conferred by it. License fee may be a tax.

(4) The granting or refusing of a license to any person to carry on a particular trade, calling, business or occupation, or of revoking a license under any of the powers conferred upon a council or a Board of Commissioners of Police by this Act, or any other Act, shall be in its discretion, and it shall not be bound to give any reason for refusing or revoking a license and its action shall not be open to question or review by any Court. Discretion as to granting or refusing a license.

(5) Where a license is revoked the licensee shall be entitled to a refund of a part of the license fee proportionate to the unexpired part of the term for which it was granted. Refund when license revoked.
3-4 Geo. V. c. 43, s. 253.

254. Subject to section 255, and to section 7 of *The Ferries Act* and to section 8 of *The Ontario Telephone Act*, a council shall not confer on any person the exclusive right of exercising, within the municipality, any trade, calling or business, or impose a special tax on any person exercising it, or require a license to be taken for exercising it, unless authorized or required by this or any other Act so to do; but the council may require a fee, not exceeding \$1, to be paid to the proper officer for a certificate of compliance with any regulations in regard to the trade, calling or business. Granting monopolies prohibited. Rev. Stat. c. 127, 1881.
3-4 Geo. V. c. 43, s. 254.

255.—(1) The council of a city may grant to any person, upon such terms and conditions as may be deemed expedient, the exclusive right to place and maintain for any period not exceeding ten years, iron waste-paper boxes on the street corners or elsewhere in the city, under and subject to the direction of the city engineer and the approval of the council. Exclusive right to maintain waste paper boxes on streets.

(2) The location of the boxes shall be subject to change from time to time at the expense of the grantee, by whom the boxes shall be kept clean and painted, and the collections therein removed, to the satisfaction of the city engineer, and as often as he may direct. Location of boxes.
3-4 Geo. V. c. 43, s. 255.

256. The council of a city may establish and carry on the business of cold storage in connection with or upon the market property of the corporation. Cold storage business.
3-4 Geo. V. c. 43, s. 256.

257.—(1) Subject to the limitations and restrictions contained in this Act, a council may borrow money for the purposes of the corporation, whether under this or any other Act, and may issue debentures therefor. Borrowing powers.

Debts for
street railways.

(2) A debt contracted by the corporation of a city for the construction or maintenance of a street railway shall not be included as part of its debt for the purpose of determining whether the limit of its borrowing power as fixed by any special Act has been reached. 3-4 Geo. V. c. 43, s. 257.

AUTHENTICATION OF BY-LAWS.

How by-
laws to be
authenti-
cated.

258.—(1) Every by-law shall be under the seal of the corporation and shall be signed by the head of the council, or by the presiding officer at the meeting at which the by-law was passed, and by the clerk.

Proof of
seal or
signature
not re-
quired.

(2) Every by-law purporting to be so sealed and signed, when produced by the clerk or any officer of the corporation charged with the custody of it, shall be received in evidence in all Courts without proof of the seal or signature.

Omission to
affix seal.

(3) Where, by oversight, the seal of the corporation has not been affixed to a by-law it may be affixed at any time afterwards, and, when so affixed, the by-law shall be as valid and effectual as if it had been originally sealed.

Certified
copy to
by-law.

(4) A copy of a by-law, purporting to be certified by the clerk, under the seal of the corporation, as a true copy, shall be received in evidence in all Courts without proof of the seal or signature. 3-4 Geo. V. c. 43, s. 258.

CERTIFICATE OF CLERK AS TO APPLICATION FOR BY-LAW.

Certificate
of clerk
that appli-
cation for
by-law duly
signed.

259.—(1) Where by this or any other Act it is provided that a by-law may be passed by a council upon the application of a prescribed number of electors or inhabitants of the municipality or locality, the by-law shall not be finally passed until the clerk, or, where there is an assessment commissioner, the assessment commissioner has certified that the application was sufficiently signed.

Rev. Stat.
c. 193.

(2) For the purposes of this section the clerk and the assessment commissioner shall have all the powers of the clerk under section 16 of *The Local Improvement Act*.

Certificate to
be conclusive.

(3) Where the clerk or assessment commissioner has so certified his certificate shall be conclusive that the application was sufficiently signed. 3-4 Geo. V. c. 43, s. 259.

PART X.

VOTING ON BY-LAWS.

Interpreta-
tion.

260. In this Part,

(a) "By-law" shall include a resolution and a question upon which the opinion of the electors is to be obtained.

- (b) "Electors" shall mean the persons entitled to vote on the by-law.
- (c) "Judge" shall mean Judge or Junior Judge of the County or District Court of the county or district in which the municipality, the council of which submits the by-law, is situate.
- (d) "Proposed by-law" shall mean a by-law submitted for the assent of the electors. 3-4 Geo. V. c. 43, s. 260.

261. This Part shall be subject to the provisions of *The Liquor License Act*. 3-4 Geo. V. c. 43, s. 261. Rev. Stat. c. 215

262. All the provisions of this Act prohibiting the doing of any act or making it an offence against this Act, and prescribing penalties therefor, applicable to the election of members of municipal councils shall apply *mutatis mutandis* to the voting upon a by-law, whether the submission of it to the electors is optional with or compulsory upon the council. 3-4 Geo. V. c. 43, s. 262. Bribery sections, etc., to apply to voting on any by-law or question.

263.—(1) Where a by-law requires the assent, or is submitted to obtain the opinion, of the electors, except where otherwise provided, the council shall, by a separate by-law, appoint the day for taking the votes of the electors, the places where the votes are to be taken, and a deputy returning officer to take the votes at every such place. If a by-law requires the assent of the electors, mode of obtaining same.

(2) The date appointed shall not be less than three, or more than five, weeks after the first publication of the notice hereinafter mentioned. Date of taking vote.

(3) A proposed by-law may be submitted on the day of the annual election, and, where it is to be so submitted, the by-law for taking the vote shall provide that the voting shall take place at the same time and at the same places as the annual election, and it shall not be necessary to appoint separate deputy returning officers to take the vote. Submitting by-law at annual election.

(4) The by-law for taking the vote shall also appoint a time when, and a place where, the clerk will sum up the number of votes given for and against the proposed by-law, or in the affirmative and the negative on the question and a time and a place for the appointment of persons to attend at the polling places, and at the final summing up of the votes by the clerk, on behalf of the persons interested in, and promoting or opposing the by-law or voting in the affirmative or the negative on the question. Time and place for summing up votes by clerk, etc.

(5) A copy of the proposed by-law, or a statement of the question submitted, as the case may be, shall be published once a week for three successive weeks, together with a notice signed by the clerk stating that the copy is a true Publication of by-law.

copy of a proposed by-law, or a correct statement of the question submitted, as the case may be, and in the case of a by-law that, if the assent of the electors is obtained to it, it will be taken into consideration by the council after the expiration of one month from the date of the first publication, which date shall also be stated, and in the case of a money by-law stating that a tenant who desires to vote must deliver to the clerk not later than the tenth day before the day appointed for taking the vote the declaration provided for by subsection 3 of section 265.

Notice.

(6) The notice shall also state the day and places appointed for taking the votes, except where the votes are to be taken at the same time as the annual election, and, in that case, shall state that the votes will be taken at the annual election, and shall also state the time and place for the appointment of persons to attend at the polling places and at the final summing up of the votes by the clerk.

Synopsis
of by-law
may be
published.

(7) Instead of publishing a copy of the proposed by-law the council may publish a synopsis of it, containing a concise statement of its purpose, the amount of the debt or liability to be created or the money to be raised by it, how the same is to be payable, and the amount to be raised annually for the payment of the debt, and the interest, or the instalments, if the debt is to be paid by instalments. *See R. S. Man., c. 116, s. 376 (b).*

One ballot
for several
by-laws.

(8) Where more money by-laws than one are submitted at the same time they may be all placed upon one ballot paper. 3-4 Geo. V. c. 43, s. 263.

Appoint-
ment
of persons
to attend at
polling
places, and
at final
summing up
of votes.

264.—(1) The head of the council, or a member of it appointed for that purpose by resolution, shall attend at the time and place appointed, and, if requested so to do, shall appoint, by writing signed by him, two persons to attend at the final summing up of the votes by the clerk, and one person to attend at each polling place on behalf of the persons interested in, and desirous of promoting, the proposed by-law, or voting in the affirmative on the question, and a like number on behalf of the persons interested in and desirous of opposing the proposed by-law, or voting in the negative on the question.

Declaration.

(2) Before any person is so appointed he shall make and subscribe a declaration, Form 19.

Appoint-
ment to be
produced.

(3) A person so appointed, before being admitted to the polling place, or to the summing up of the votes, shall, if so requested, produce and show his appointment to the deputy returning officer.

When elec-
tor may act.

(4) In the absence of a person so appointed, or if no person has been appointed, any elector, upon making and subscribing, before the returning officer or deputy returning

officer, a declaration, Form 20, may be present at a polling place, or at the final summing up of the votes, as the case may be. 3-4 Geo. V. c. 43, s. 264.

265.—(1) The persons qualified to vote on a money by-law shall be those entitled to vote at an election with the following exceptions:—

Persons
qualified to
vote on
money by-
laws.

(a) Tenants, other than those mentioned in subsection 3.

(b) Farmers' sons.

(c) Income voters.

(2) The nominee of a corporation assessed upon the last revised assessment roll of the municipality which, if it had been a male person, would have been entitled to have been entered on the voters' list from which the list of voters mentioned in section 266 is to be prepared or in the case provided for by section 94 would, had it been a male person, have been entitled to be entered on such list of voters, shall also be qualified to vote.

(3) A tenant, whose lease extends for the time for which the debt or liability is to be created, or in which the money to be raised by the proposed by-law is payable, or for at least twenty-one years, and who has by the lease covenanted to pay all municipal taxes in respect of the property other than local improvement rates, if he makes and files with the clerk not later than the tenth day before the day appointed for taking the vote a declaration, under *The Canada Evidence Act*, so stating, shall be entitled to have his name entered on the list of voters prepared by the clerk, under section 266.

Qualifica-
tion of
tenants.

R.S.C. c. 45.

(4) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a money by-law it shall not later than the tenth day before the day appointed for taking the vote file with the clerk of the municipality an appointment in writing of a person to vote as its nominee and on its behalf, and the name of every such nominee shall be included in the list. 3-4 Geo. V. c. 43, s. 265.

Appoint-
ment of
nominee of
corporation
to be filed
with clerk.

266.—(1) Where the proposed by-law is a money by-law or one on which all the municipal electors are not entitled to vote the clerk, after the passing of the by-law for taking the vote, and not later than the tenth day before the day appointed for taking the vote, shall prepare a list of the persons entitled to vote on the proposed by-law and, subject to section 267 and to section 24 of *The Ontario Voters' Lists Act*, the list so prepared shall be final and conclusive as to the right of every person named therein to vote, except in the case of a local option by-law where he is not at the time of the taking of the vote thereon, and has not been for the three months before that time a *bona fide* resident of the municipality, and that no person not named therein is entitled to vote.

Preparation
of list of
voters.

Rev. Stat.
c. 6.

From last revised voters' list or assessment roll.

(2) The clerk shall prepare such list from the last revised voters' list, and in the case provided for by section 94 from the last revised assessment roll, omitting from his list the names of all persons whose names are entered on such voters' list or assessment roll, but are not entitled as appears by such list or roll to vote on the by-law, and in the case of money by-laws including in the list the nominees of corporations who are entitled to vote on the by-law.

Designating tenants entitled to vote.

(3) When the voting is to take place at the same time as the annual municipal elections, it shall be sufficient in the case of persons whose names are entered on the voters' list as tenants, if there is written on the voters' list used for the purpose of the election opposite to the name of such of them as are entitled to vote on the by-law the words "entitled to vote on the by-law," and it shall be deemed that the names of all others of such persons are omitted from the list within the meaning of subsection 2.

Clerk to certify.

(4) The list prepared by the clerk shall be certified by him to be a true and correct list of all persons entitled to vote on the proposed by-law, and shall be forthwith posted up in his office. 3-4 Geo. V. c. 43, s. 266.

Revision of list by judge.

267.—(1) At any time not later than five days before the day appointed for taking the vote, a Judge, upon the application of any person whose name is entered on the list of voters prepared by the clerk, or of any person entitled to be entered on that list, may strike from the list the name of any person who is dead or whose name has been wrongly entered on it, and may add to the list the name of any person whose name has been wrongly omitted from the list, or who, if a tenant, though he had not made the declaration prescribed by subsection 3 of section 265, establishes that he has the qualification prescribed by that subsection.

Proof of death.

(2) For the purpose of proving a death, the certificate of the Registrar-General, or of the Division Registrar, shall be sufficient evidence, but if the identity of the person who is dead with the person whose name is sought to be struck off is disputed, or open to reasonable doubt, proof of the identity shall be required.

Rev. Stat. c. 6.

(3) The proceedings shall be the same, as nearly as may be, as prescribed by subsection 2 of section 23 of *The Ontario Voters' Lists Act*. 3-4 Geo. V. c. 43, s. 267.

Voters' list where all municipal electors vote.

268. Where all the municipal electors are entitled to vote on the proposed by-law the same lists shall be used in taking the vote as would be the proper voters' list to be used at a municipal election, and such lists shall be as final and conclusive as to the right to vote as when used at a municipal election. 3-4 Geo. V. c. 43, s. 268.

269. In a municipality divided into wards, a voter shall be entitled to vote on a money by-law in each ward in which he has the prescribed qualification, but shall not be entitled to vote more than once on any other by-law or on any question submitted to the electors unless it is otherwise expressly provided by the Act, by-law or other authority under which the vote is taken. 3-4 Geo. V. c. 43, s. 269.

Where rate-payers qualified in more than one ward.

270. The clerk, if otherwise qualified, shall be entitled to vote, but not to give a casting vote. 3-4 Geo. V. c. 43, s. 270.

Clerk not to have casting vote.

271. The ballot papers shall be according to Form 20 when the voting is on a by-law, and according to Form 21 when it is on a question. 3-4 Geo. V. c. 43, s. 271.

Form of ballot papers.

272. The printed directions to voters shall be according to Form 22. 3-4 Geo. V. c. 43, s. 272.

Directions to voters.

273.—(1) Where all the municipal electors are entitled to vote the voter's oath shall be the same *mutatis mutandis* as at a municipal election where the members of the council are elected by general vote.

Voter's oath where all municipal electors vote.

(2) In the case of a money by-law a voter shall not be entitled to select the form of oath he will take, but the oath to be taken by him shall be that applicable to his qualification as a freeholder or tenant, as it appears in the list of voters. 3-4 Geo. V. c. 43, s. 273.

Voter not entitled to select form of oath.

274. Except as otherwise in this Part provided, Part III. shall apply *mutatis mutandis* to voting on a by-law. 3-4 Geo. V. c. 43, s. 274.

Application of part 3.

275. After the clerk has summed up the number of votes cast he shall declare the result of the voting and shall forthwith certify to the council the number of votes cast for and against the by-law. 3-4 Geo. V. c. 43, s. 275.

Clerk to certify result to council.

276. Subject to section 278, a by-law shall be deemed to have been assented to by the electors if a majority of the votes cast is in favour of the by-law. 3-4 Geo. V. c. 43, s. 276.

Assent of electors, what deemed to be.

277. Where the by-law is proposed to be passed by a county council the proceedings shall be similar to those in the case of a by-law proposed to be passed by the council of a local municipality except that the list of voters for each local municipality shall be prepared by the clerk of it and not by the clerk of the county council, and that the declaration and appointment provided for by subsections 3 and 4 of section 265 shall be filed with the clerk of the local municipality. 3-4 Geo. V. c. 43, s. 277.

Procedure in case of a county by-law.

Requisites of Bonus By-laws.

Vote re-
quired to
validate
bonuses to
railway,
waterworks
co., etc.

278.—(1) In the case of a by-law for granting a bonus in aid of a railway, or to a waterworks or water company, or for taking stock in, or for lending money to, or for guaranteeing the payment of money borrowed by a railway company, the assent of one-third of all the persons entitled to vote, as well as of a majority of all those voting shall be necessary.

To manu-
facturing
industries.

(2) Subject to subsection 3, in the case of a by-law for granting a bonus in aid of a manufacturing industry, the affirmative vote of three-fourths of all the members of the council and the assent of two-thirds of the electors who vote on the by-law shall be necessary.

To iron
works, grain
elevators,
etc.

(3) In the case of a by-law for granting a bonus for the promotion of iron works, rolling mills, works for refining or smelting ore or for the establishment of grain elevators, or in aid of a beet sugar factory the assent of one-third of all the persons entitled to vote, as well as of a majority of those voting shall be necessary.

Statement
by clerk.

(4) In the cases provided for by subsections 1 and 3 the clerk shall add to the prescribed certificate of the result of the voting a statement of the total number of persons entitled to vote upon the by-law. 3-4 Geo. V. c. 43, s. 278.

Scrutiny.

Scrutiny
may be had
on applica-
tion to
County
or District
Judge.

279.—(1) Within two weeks after the clerk has declared the result of the voting, any person who was entitled to vote upon the by-law or the council, after giving notice of the application to such persons as the Judge directs, may apply to a Judge of the County or District Court of the county or district in which the municipality is situate for a scrutiny of the votes, and if it is shown by affidavit that there are reasonable grounds for the application, and, if the application is by a person entitled to vote on the by-law, he enters into a recognizance before the Judge, and to be allowed by him, in the sum of \$100, with two sureties in the sum of \$50 each, conditioned to prosecute the application with effect, and to pay to any person to whom costs may be awarded the costs awarded to him, the Judge may order a scrutiny of the votes to be had, and shall appoint a time and place, within the municipality, for proceeding with it.

Notice of
time of
scrutiny.

(2) At least one week's notice of the time and place appointed shall be given by the applicant to such persons as the Judge directs, and to the clerk.

Proceedings.

(3) At the time and place appointed the clerk shall attend before the Judge with the ballot papers, and the Judge after hearing such evidence as he may deem necessary, and the parties, or such of them as attend, or their counsel, shall,

in a summary manner, determine whether the by-law has been assented to as required by this Act, and shall forthwith certify the result to the council.

(4) Where it is proved that any person interested in, and promoting or opposing the by-law, was guilty of bribery or of a corrupt practice in respect of a voter who voted on the by-law, or if any person who is disqualified under subsection 1 of section 61 from voting at an election or is disqualified under clause (a) of section 396 is proved to have voted there shall be struck off the number of votes given for the by-law, if the person guilty or so disqualified was promoting the by-law, or given against the by-law if the person guilty or so disqualified was opposing the by-law, one vote for every ballot cast by such voter. Striking off votes for corrupt practices.

(5) The Judge shall have the like power and authority as to all matters arising upon the scrutiny as would be possessed by him upon a trial of the validity of the election of a member of a council, but shall not have power to set aside the voting on the ground of general bribery or corrupt practices; and the costs shall be in the discretion of the Judge, who may direct by whom, to whom and in what manner they shall be paid. Powers of Judge. Costs.

(6) The decision of the Judge shall be final and not subject to appeal. 3-4 Geo. V. c. 43, s. 279. No appeal.

Passing By-laws by Council.

280.—(1) Where a proposed by-law which the council has been legally required by petition or otherwise to submit for the assent of the electors has received such assent, it shall be the duty of the council to pass the by-law within six weeks after the voting took place. Cases in which council must pass by-law assented to by electors.

(2) In other cases it shall not be incumbent on the council to pass the by-law, but if the council determines to pass it, it shall be passed within six weeks after the voting took place and not afterwards. Discretion of council in other cases.

(3) The by-law in either case shall not be passed until the expiration of two weeks after the result of the voting has been declared, or if within that period an order for a scrutiny has been made, until the result of the scrutiny has been certified by the Judge. Time within which by-law cannot be passed.

(4) The time which intervenes between the making of an application for a scrutiny and the final disposition of it shall not be reckoned as part of the six weeks. 3-4 Geo. V. c. 43, s. 280. Time occupied by scrutiny not to be counted.

Promulgation of By-laws.

281.—(1) The promulgation of a by-law shall consist in the publication of a true copy of it, with a notice, Form 23, appended thereto, at least once a week for three successive weeks. Promulgation of by-laws. Publication.

If not moved
against
within the
time limited,
to be valid.

(2) If an application to quash the by-law, or part of it, is not made within three months after the first publication, the by-law, or so much of it as is not the subject of or is not quashed upon any such application, shall be valid and binding, according to its terms, so far as the same ordains, prescribes or directs anything within the proper competence of the council. 3-4 Geo. V. c. 43, s. 281.

PART XI.

QUASHING BY-LAWS.

Interpreta-
tion.

282. In this Part "by-law" shall include an order or resolution. 3-4 Geo. V. c. 43, s. 282.

Proceedings
to quash
by-law.

283.—(1) The Supreme Court, upon application of a resident of the municipality or of a person interested in a by-law of its council, may quash the by-law, in whole or in part, for illegality.

Service of
notice.

(2) Notice of the application shall be served at least seven days before the return day of the motion.

Recogniz-
ance.

(3) Before the application is made, the applicant or, if the applicant is a corporation, some person on its behalf, shall enter into a recognizance before a Judge of the County or District Court of the county or district in which the municipality is situate, himself in the sum of \$50, and two sureties each in the sum of \$50, conditioned to prosecute the application with effect, and to pay any costs which may be awarded against the applicant.

Allowance
of recog-
nizance.

(4) The Judge may allow the recognizance upon the sureties making proper affidavits of justification, and after it is allowed the recognizance with the affidavits shall be filed in the Central Office of the Supreme Court.

Deposit in
court in lieu
of recogniz-
ance.

(5) In lieu of the recognizance the applicant may pay into Court \$100, and the certificate of the payment into Court shall be filed in the Central Office.

Application
of deposit.

(6) After the determination of the proceedings the Judge may order that the money paid into Court be applied in payment of costs, or be paid out to the applicant. 3-4 Geo. V. c. 43, s. 283.

Quashing
by-law for
corrupt
practice.

284. A by-law, in respect of the passing of which a violation of any of the provisions of sections 187 to 189 has taken place, may be quashed. 3-4 Geo. V. c. 43, s. 284.

Application
to quash
by-law
affecting
another
municipi-
pality.

285.—(1) Where it is alleged that a by-law injuriously affects another municipality or any ratepayer of it, and that the by-law is illegal, in whole or in part, the corporation of such other municipality or any ratepayer of it may apply to quash the by-law.

(2) Where the application is made by a municipal corporation security for costs shall not be required.

No security required from municipality.

(3) Where the application is based upon an allegation of a violation of any of the provisions of sections 187 to 189, either alone or in conjunction with any other ground of objection, the Supreme Court may direct an inquiry as to the alleged violation to be had before a special examiner or a Judge of the County or District Court of the county or district in which the municipality is situate, and the witnesses upon the inquiry shall be examined upon oath.

Inquiry by county or district judge where corrupt practices alleged.

(4) After the completion of the inquiry the special examiner or the Judge shall return the evidence taken before him to the proper officer of the Supreme Court, and the same may be read in evidence upon the motion to quash.

Return of evidence to officer of Supreme Court.

(5) Where an order directing an inquiry, under subsection 3, has been made, and a copy of it has been left with the clerk of the municipality, nothing shall be done under the by-law unless the Supreme Court otherwise orders until the application is disposed of.

No act to be done under by-law pending inquiry.

(6) In other cases the Court may direct that nothing shall be done under the by-law until the application is disposed of. 3-4 Geo. V. c. 43, s. 285.

286. An application to quash, in whole or in part, a by-law which has not been promulgated or registered under the provisions of section 296 shall not be entertained unless the application is made within one year after the passing of the by-law, unless it required the assent of the electors and had not been submitted for, or had not received their assent; but in that case an application may be made at any time. 3-4 Geo. V. c. 43, s. 286.

Time for making application to quash.

Exception.

PART XII.

MONEY BY-LAWS.

287.—(1) In this Part “Debt” shall include liability and the borrowing of money.

(2) “Rateable property” when used in this Act or in any by-law heretofore or hereafter passed which directs the levying of a rate on the rateable property in the municipality or any part of it shall include income and business assessment as defined by *The Assessment Act*. 3-4 Geo. V. c. 43, s. 287.

“Rateable property.”

Rev. Stat. c. 195.

288.—(1) A money by-law shall recite:

Recitals.

(a) The amount of the debt intended to be created, and, in brief and general terms, the object for which it is to be created;

Amount to be raised annually.

The value of the rateable property.

(b) The amount of the whole rateable property of the municipality according to the last revised assessment roll, or, in the case of a county, the last revised and equalized assessment rolls of the local municipalities of which the county is composed;

Amount of existing debt.

(c) The amount of the debenture debt of the corporation, and how much, if any, of the principal or interest is in arrear.

When debentures to be made payable.

(2) The whole debt and the debentures to be issued therefor shall be made payable within the respective periods hereinafter mentioned at furthest from the time when the debentures are issued.

(a) If the debt is a bonus in aid of a railway or for the promotion of iron works, rolling mills or works for refining or smelting ores, or is for railways, harbour works or improvements, sewers, gas or waterworks, the purchase or improvement of parks or the erection of high, continuation or public school houses, and the acquiring of land therefor, or for electric light, heat or power works or water privileges or land used in connection therewith, or for acquiring land for a drillshed or armoury, in thirty years.

(b) If the debt is for the establishment of a system of public scavenging or for the collection and disposal of ashes, refuse and garbage, in ten years.

(c) If the debt is for the purchase of road-making machinery and appliances, in five years.

(d) If the debt is for any other purpose the whole debt, and the debentures to be issued therefor, shall be made payable in twenty years.

Amounts to be raised annually.

(3) Where the principal of the debt is made payable at a fixed date with interest payable annually or semi-annually the by-law shall provide for the raising in each year during the currency of the debentures, or of any set of them, of—

(a) A specific sum sufficient to pay the interest on the debentures, or on any set of them, when and as it becomes due; and

(b) A specific sum which, with the estimated interest, at a rate not exceeding 4 per cent. per annum, capitalized yearly, will be sufficient to pay the principal of the debentures, or of any set of them, when and as it becomes due.

Equal annual instalments of principal and interest.

(4) Instead of the principal being made payable at a fixed date, with interest, payable annually or semi-annually, the by-law may provide that the principal and the interest shall be combined, and be made payable in, as nearly as possible,

equal annual instalments during the period for which the debentures are to run, or that, without combining the principal and interest, the instalments of principal shall be of such amounts that, with the interest in respect of the debt, payable annually or semi-annually, the aggregate amount payable for principal and interest in each year shall be, as nearly as possible, the same.

(5) In the cases provided for by subsection 4, the by-law shall provide for raising in each year in which an instalment becomes due a specific sum sufficient to pay it when and as it becomes due. Amount to be raised annually.

(6) In the case of a by-law heretofore or hereafter passed, the council may by by-law, without the assent of the electors, authorize a change in the mode of issue of the debentures and may provide that the debentures be issued with coupons, instead of in amounts of combined principal and interest or *vice versa*; and where any debentures issued under the by-law have been sold, pledged or hypothecated the council, upon again acquiring them, or at the request of any holder of them, may cancel them, and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year. By-law to change mode of issuing debentures.

(7) All the debentures shall be issued at one time and within two years after the passing of the by-law, unless on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years, and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts, and at such times, as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law. Debentures, when to be dated and issued.

(8) All the debentures shall bear the same date, except where they are issued in sets, and in that case every debenture of the same set shall bear the same date. Date of debentures.

(9) The Municipal Board, on the application of the council or of any person entitled to any of the debentures, or of the proceeds of the sale thereof, may extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law. Extension of time for issue.

(10) The extension may be made, although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

(11) Unless the by-law names a later day when it is to take effect, it shall take effect on the day of its passing. Day when by-law to take effect.

Assent of
electors,
when re-
quired.

289.—(1) Except where otherwise provided by this or any other Act, a corporation shall not incur any debt the payment of which is not provided for in the estimates for the current year, unless a by-law of the council authorizing it has been passed with the assent of the electors.

Exceptions.

(2) Subsection 1 shall not apply to a by-law passed

(a) Under section 290; or

Rev. Stat.
c. 193.

(b) Under *The Local Improvement Act*; or

(c) By the council of a city or county where the city forms part of the county for judicial purposes, for raising money for erecting, rebuilding, enlarging or furnishing the court house and offices to be used in connection therewith and the gaol, and for acquiring such land as may be necessary or convenient for those purposes; or

(d) By the council of a city or a separated town for raising such sum as is required to pay its share of the debt of the county as agreed upon or determined by arbitration; or

(e) By the council of a city with the approval of the Municipal Board for raising such sum as may be required to pay its share of the cost of constructing or reconstructing a bridge over any stream which constitutes a dividing line between the city and any other municipality or of reconstructing any existing bridge within the municipality; but the aggregate amount to be raised for all of such purposes in any one year shall not be more than \$10,000 where the city has a population of not more than 20,000; or \$15,000 where the city has a population of more than 20,000 and not more than 100,000; or \$20,000 where the city has a population of more than 100,000; or

(f) By the council of any municipality, with the approval of the Municipal Board, for raising such sum as is required to pay the share ordered to be paid by the corporation of the cost of any work constructed under the order of the Board of Railway Commissioners of Canada or of the Municipal Board or of any work or improvement which, in the opinion of the Municipal Board, has been rendered necessary or expedient owing to the construction of any work ordered by either of the boards; or

(g) By the council of an urban municipality for raising such sum as may be required for the purchase of a site in the municipality for an armoury or drill-shed for any militia or volunteer corps having its headquarters in the municipality, if the by-law

is passed by a vote of two-thirds of all the members of the council; or

(h) By the council of a county for guaranteeing debentures of a local municipality; or

(i) By the council of a town or village for purchasing fire engines, appliances, apparatus and appurtenances as provided by paragraph 1 of section 407; or

(j) For borrowing money for any of the purposes mentioned in section 43 or 44 of *The Public Schools Act*, or section 38 of *The High Schools Act*, or subsection 2 of section 3 of *The Continuation Schools Act*; or

Rev. Stat.
c. 266.
Rev. Stat.
c. 268.
Rev. Stat.
c. 269.

(k) For borrowing a sum not exceeding \$5,000 for the purpose of making a grant to the University of Toronto; or

(l) Under paragraph 11 of section 483; or

(m) For borrowing any sum or incurring any debt which under the provisions of *The Public Health Act* may be borrowed or incurred without the assent of the electors.

Rev. Stat.
c. 218.

(3) A municipal corporation may enter into any contract for the supply of a public utility as defined by *The Public Utilities Act*, to the corporation or to the inhabitants thereof for any period not exceeding 10 years in the first instance and for renewing such contract from time to time for further periods not exceeding 10 years at any one time if a by-law setting forth the terms and conditions of such contract has been first submitted to and has received the assent of the municipal electors in the manner provided by this Act.

Contracts
for supply
of a public
utility.
Rev. Stat.
c. 201.

3-4 Geo. V. c. 43, s. 289.

290.—(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure and over and above any sum which the council is by this Act or any other Act expressly authorized to borrow without the assent of the electors.

Special
power of
county to
borrow.

(2) Subject to subsection 3 the by-law shall be passed at a meeting specially called for the purpose of considering it, and held not less than six weeks after the first publication of a notice of the day appointed for the meeting which shall be published once a week for four successive weeks, and shall state the amount to be borrowed, and the purpose for which it is to be borrowed.

Passing of
by-law.

(3) The by-law may be passed at any regular or special meeting to which the consideration of it may be adjourned.

3-4 Geo. V. c. 43, s. 290.

When
rate of
interest
may be
increased.

291. Where, owing to an advance in the rate of interest between the passing of a money by-law heretofore or hereafter passed, and the sale or other disposal of the debentures, they or any of them cannot be sold or disposed of, except at a discount involving a substantial reduction in the amount required to be provided, the council may, with the approval of the Municipal Board, and without submitting the same for the assent of the electors, pass a by-law to amend the first-mentioned by-law by providing for an increased rate of interest, and for a corresponding increase in the amount to be raised annually. 3-4 Geo. V. c. 43, s. 291.

Repeal of
by-law,
when part
only of
money
raised.

292.—(1) Where part only of a sum of money provided for by a by-law has been raised the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

When to
take effect.

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. 3-4 Geo. V. c. 43, s. 292.

Until debt
paid certain
by-laws
cannot be
repealed.

293. Subject to the next preceding section, after a debt has been contracted under a by-law, the council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source; and shall not alter any such by-law, so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the corporation which has been directed to be applied to such payment. 3-4 Geo. V. c. 43, s. 293.

Penalty for
neglect of
officer to
carry out
by-law.

294. Any officer of a corporation whose duty it is to carry into effect any of the provisions of a money by-law who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, shall incur a penalty not exceeding \$100. 3-4 Geo. V. c. 43, s. 294.

Application
for approval
of by-law
by municipal
Board.

295.—(1) The council of a municipality which has heretofore passed or shall hereafter pass a money by-law, or a by-law imposing a special assessment or a special rate under this or any other Act, or the holder of any debenture issued under any such by-law or any person entitled to receive any of such debentures or of the proceeds of the sale thereof, may apply to the Municipal Board for a certificate approving the by-law.

Certificate
not to be
granted
while pro-
ceedings
pending.

(2) A certificate shall not be granted while any action or proceeding in which the validity of the by-law is called in question, or by which it is sought to quash it, is pending, or until thirty days after the final passing of the by-law, unless

notice of the application shall be given in such manner and to such persons, if any, as the Board may direct.

(3) The Board may grant the certificate notwithstanding any irregularity in the proceedings prior to the final passing of the by-law or in the by-law itself, or where the by-law has been amended by the council to conform with the provisions of the Act under the authority of which it was passed, and, except in the case provided for by section 291, the burden on the ratepayers is not increased by the amending by-law, if in the opinion of the Board the provisions of the Act under the authority of which the by-law was assumed to be passed have been substantially complied with.

Board may grant certificate upon proof of substantial compliance with law.

(4) Every by-law approved by the Board and the debentures issued or which may thereafter be issued in substantial conformity with its provisions, shall be valid and binding upon the corporation and upon the property liable for the rate imposed by or under the authority of the by-law, and the validity of the by-law and of every such debenture shall not thereafter be open to question in any court.

By-law and debentures not to be open to question after approval.

(5) Where a by-law has been approved the Board may also approve the debentures issued or which may thereafter be issued under the authority of the by-law, and every debenture so approved shall be valid and binding upon the corporation and upon the property liable for the rate imposed by or under the authority of the by-law and the validity of any debenture so approved shall not be open to question in any court.

Approval of debentures.

(6) The certificate may be in the following form:

Form of certificate.

"In pursuance of *The Municipal Act*, the Ontario Railway and Municipal Board hereby certifies that the within by-law (or debenture) is valid and binding, and that its validity is not open to be questioned in any court on any ground whatever.

Dated

Chairman."

(Seal.)

3-4 Geo. V. c. 43, s. 295.

REGISTRATION OF MONEY BY-LAWS.

296.—(1) Within four weeks after the passing of a money by-law the clerk shall register a duplicate original or a copy of it certified under his hand and the seal of the corporation, in the case of a county, in the registry division in which the county town is situate, and, in the case of a local municipality, in the registry division in which it is situate, or if the municipality comprises parts of two or more registry divisions in either of them.

Money by-laws to be registered.

(2) A clerk who neglects to perform within the prescribed period the duty imposed upon him by subsection 1 shall incur a penalty of \$200, recoverable by action, and, in default of payment, shall be liable to imprisonment for such period, not exceeding twelve months, as the Court may direct.

Penalty.

Publication
of notice.

(3) Notice, Form 24, of the registration of every such by-law, except a by-law which has received the assent of the electors, or a by-law mentioned in subsection 4 shall immediately after its registration be published at least once a week for three successive weeks.

Exception
as to cer-
tain by-laws.
Rev. Stat.
c. 198.
Rev. Stat.
c. 192.

(4) It shall not be obligatory to register a by-law for the issue of debentures passed under *The Municipal Drainage Act* or under *The Local Improvement Act*.

Application
to quash
registered
by-law—
when to be
made.

(5) Every by-law registered in accordance with the provisions of subsection 1, or before the sale or other disposition of the debentures issued under it, and the debentures shall be valid and binding, according to the terms thereof, and the by-law shall not be quashed, unless within one month after the registration in the case of by-laws to which subsection 4 applies, and in the case of other by-laws, within three months after the registration or where publication of the notice provided for by subsection 3 is required within three months after the first publication of the notice, an application or action to quash the by-law is made to or brought in a Court of competent jurisdiction, and a certificate under the hand of the proper officer of the Court and its seal, stating that such application has been made or action brought is registered in such registry office within such period of three months.

When by-
law, or so
much there-
of as is
not quashed,
to be valid.

(6) If the application or action is dismissed, in whole or in part, a certificate of the dismissal may be registered and at the expiration of three months from the date of the registration of the by-law the by-law, or so much of it as is not quashed, shall be valid and binding according to its terms.

Illegal by-
laws not
validated.

(7) Nothing in this section shall make valid a by-law, which requires, but has not received, the assent of the electors, or a by-law where it appears on the face of it that any of the provisions of subsections 2, 3, 4 and 6 of section 288 have not been substantially complied with.

(8) Failure to register a by-law as prescribed by this section shall not invalidate it. 3-4 Geo. V. c. 43, s. 296.

PART XIII.

YEARLY RATES AND ESTIMATES.

Yearly-rates
to be levied,
sufficient to
pay all debts
payable
within the
year.

297.—(1) Subject to subsection 13 of section 397, the council of every municipality shall in each year assess and levy on the whole rateable property within the municipality a sum sufficient to pay all debts of the corporation, whether of principal or interest, falling due within the year, but shall not assess and levy in any year more than two cents in the dollar on the assessed value of such property according to the last revised assessment roll, exclusive of school and local improvement rates.

Limit of
rates.

(2) If the aggregate amount of the rates necessary for payment of the current annual expenditure of the corporation and the principal and interest of such debts exceeds the rate mentioned in subsection 1, the council shall assess and levy such further sum as may be necessary to discharge such debts, but shall not contract any further debt until the annual rates are reduced to that rate. 3-4 Geo. V. c. 43, s. 297.

Where aggregate rates insufficient.

298.—(1) The council of every municipality shall, in each year, prepare estimates of all sums required for the purposes of the municipality during such year, making due allowance for the cost of collection, and for the abatement of taxes and for taxes which may not be collected.

Estimates to be made annually.

(2) One by-law or several by-laws for assessing and levying the rates may be passed as the council may deem expedient. 3-4 Geo. V. c. 43, s. 298.

By-laws for levying rates.

299.—(1) Where the amount collected falls short of the sum required the council may direct that the deficiency be made up from any unappropriated fund, or, if there is no such fund, the deficiency may be deducted proportionately from the sums estimated, or from any one or more of them.

If the amount collected falls short. Estimates may be reduced.

(2) Where the amount collected exceeds the estimates, the surplus shall form part of the general funds, and shall be at the disposal of the council unless otherwise specially appropriated. 3-4 Geo. V. c. 43, s. 299.

When sums collected exceed estimate.

300. The rates imposed for any year shall be deemed to have been imposed and to be due on and from the 1st day of January of such year unless otherwise expressly provided by the by-law by which they are imposed. 3-4 Geo. V. c. 43, s. 300.

Rates to be due on January 1st.

PART XIV.

RESPECTING FINANCES.

ACCOUNTS AND INVESTMENTS.

301. Every council shall keep a separate account of every debt and shall also keep two additional accounts in respect thereof, one for the interest and the other for the sinking fund or the instalments of principal, and both to be distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted; and the accounts shall be kept so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for payment of it. 3-4 Geo. V. c. 43, s. 301.

Accounts, how to be kept.

Application of surplus money.

302.—(1) If, in any year, after paying the interest and appropriating the necessary sum to the sinking fund, or in payment of the instalments, there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or for the sinking fund, or in payment of the principal.

Money levied for a sinking fund not to be diverted.

(2) No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the corporation.

Liability of members for diversion of sinking fund.

(3) If the council applies any of such money in paying current or other expenditure, the members who vote for such application shall be personally liable for the amount so applied, which may be recovered in any Court of competent jurisdiction.

Action by ratepayer.

(4) If the council, upon the request in writing of a ratepayer, refuses or neglects for one month to bring an action therefor, the action may be brought by any ratepayer on behalf of himself and all other ratepayers.

Disqualification.

(5) The members who vote for such application shall be disqualified from holding any municipal office for two years.

Statement of Treasurer as to amount required for sinking fund.

(6) The treasurer of a municipality in which any sum is required by law to be raised for a sinking fund, shall prepare and lay before the council in every year, previous to the striking of the annual rate, a statement showing what amount will be required for that purpose.

Penalty.

(7) For every contravention of subsection 6 the treasurer shall incur a penalty not exceeding \$25.

Penalty where council neglects to levy for sinking fund.

(8) If the council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the council shall be disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. 3-4 Geo. V. c. 43, s. 302.

Investment of sinking fund.

303. Subject to the provisions of sections 304 and 305, the council shall invest the sinking fund in such securities as a trustee may invest in under *The Trustee Act*, or with the approval of the Municipal Board in any debentures of the corporation. 3-4 Geo. V. c. 43, s. 303.

Rev. Stat. c. 121.

Redemption of debentures with sinking fund.

304. The Municipal Board, on the application of a council, may direct that any part of the sinking fund, instead of being invested as hereinbefore provided, shall, from time to time, be applied to the redemption of any of the debentures, to the payment of which such sinking fund is applicable, to be selected as provided by the order of the Board at such value as may be agreed on by the council and the holders of the debentures. 3-4 Geo. V. c. 43, s. 304.

305.—(1) A council may provide by a money by-law that the annual amount to be levied on account of the sinking fund shall be paid by the treasurer of the municipality to the Treasurer of Ontario, and if the by-law does not provide for such payment the council may pass a by-law providing therefor.

Payment of sinking fund into Provincial Treasury.

(2) Where a council avails itself of the right conferred by the next preceding subsection, the Treasurer of Ontario may receive from the treasurer of the municipality the annual amounts so levied on account of the sinking fund and allow and credit the municipality with interest thereon at the rate of four per cent. per annum, compounded yearly until the time when the debentures to which the sinking fund is applicable become payable and the sinking fund is required for their redemption.

Treasurer may allow interest on funds in his hands.

(3) All money received by the Treasurer of Ontario under the provisions of this section shall form part of the Consolidated Revenue Fund, and a statement of the amount at the credit of each municipality shall be set forth annually in the Public Accounts of Ontario.

Money so received to form part of Consolidated Revenue.

(4) The Treasurer of Ontario may invest the amount at the credit of a municipality or any part thereof in the debentures of such municipality, to redeem which such sinking funds were paid to the Treasurer.

Sinking fund may be invested in the debentures to be redeemed.

(5) The amount payable in any year into the sinking fund which under the provisions of the by-law is to be paid to the Treasurer of Ontario shall be deemed a debt due to him, and in default of payment thereof he may sue therefor in his own name as for a debt due to the Crown in any Court of competent jurisdiction. 3-4 Geo. V. c. 43, s. 305.

Amount payable into sinking fund to be a debt to the Treasurer.

306. Every corporation the council of which shall hereafter pass a money by-law shall within thirty days after the final passing of the by-law transmit a certified copy of it to the Treasurer of Ontario. 3-4 Geo. V. c. 43, s. 306.

Money by-laws to be sent to Provincial Treasurer.

307. Where by any by-law heretofore or hereafter passed provision is made for raising a sinking fund to meet the debentures to be issued under the authority of the by-law the council in each year in which a sinking fund is required to be raised shall transmit to the Treasurer of Ontario a return showing whether the sinking fund for the year has been raised and how it has been applied or dealt with, and the state of the investment of any part of the sinking fund theretofore collected, which return shall be verified by the affidavit or statutory declaration of the head and the treasurer of the municipality. 3-4 Geo. V. c. 43, s. 307.

Annual return as to sinking fund.

308. A corporation the council of which does not comply with the provisions of the next two preceding sections shall incur a penalty not exceeding \$100. 3-4 Geo. V. c. 43, s. 308.

Penalty.

Certain money may be set apart for educational purposes.

Investment of same.

309.—(1) Where a corporation has surplus money derived from "The Ontario Municipalities Fund," or from any other source, the council may set it apart for educational purposes and may invest it as well as any other money held by the corporation for or appropriated by it to such purposes in the securities mentioned in section 303, or may lend the same to any board of public school trustees in the municipality for such term and at such rate of interest as may be agreed upon, or may apply any part of such money in aid of poor school sections in the municipality. 3-4 Geo. V. c. 43, s. 309.

Apportionment of public school money among school sections in townships.

310. The council of a township may apportion, among the public school sections in the township, the principal or interest of any investments for public school purposes, according to the salaries paid to the teachers, or the average attendance of pupils in the respective school sections during the next preceding year, or according to the assessed value of the property in the section, or by an equal division among the sections. 3-4 Geo. V. c. 43, s. 310.

Prohibition as to unauthorized investment.

311. A member of a council shall not take part in, or be a party to, the investment of any such money, otherwise than as authorized by this Act; and, if he does so, he shall be personally liable for any loss sustained by the corporation in respect of the investment. 3-4 Geo. V. c. 43, s. 311.

Council to make annual report of debts to Bureau of Industries.

312.—(1) Every corporation shall, on or before the 31st day of January in each year, transmit to the Secretary of the Bureau of Industries in such form as may be prescribed by the Lieutenant-Governor in Council a statement as to the debts of the corporation, as they stood on the preceding 31st day of December, specifying, in regard to each debt of which any part remained unpaid on that day,

- (a) The original amount of the debt;
- (b) The date when it was contracted;
- (c) The time fixed for its payment;
- (d) The interest payable;
- (e) The amount to be raised annually for the payment of the debt and interest, or the instalments of them;
- (f) The amount actually raised in the year ended on the 31st day of December;
- (g) The part, if any, of the debt redeemed or paid during that year;
- (h) The amount of interest, if any, unpaid on that day; and
- (i) The amount of principal still unpaid.

(2) For every contravention of subsection 1 the corpora- Penalty.
tion shall incur a penalty not exceeding \$40. 3-4 Geo. V.
c. 43, s. 312.

COMMISSION OF INQUIRY INTO FINANCES.

313.—(1) The Lieutenant-Governor in Council, on the application of one-third of the members of a council or of thirty municipal electors, may issue a commission to inquire into the financial affairs of the corporation and any matter connected therewith and the commissioner shall have all the powers which may be conferred on commissioners appointed under *The Public Inquiries Act*.

When a commission of inquiry may issue.

Rev. Stat. c. 18.

(2) The expenses of and incidental to the execution of the commission shall be determined and certified by the Treasurer of Ontario, and shall thereupon become a debt due by the corporation to the commissioner, payable within three months after demand therefor. 3-4 Geo. V. c. 43, s. 313.

DEBENTURES.

314.—(1) A debenture or other like instrument shall be sealed with the seal of the corporation, and signed by the head of the council, or by some other person authorized by by-law to sign it, and by the treasurer.

(2) A debenture may have coupons for the interest attached to it which shall be signed by the treasurer, and his signature to them may be written, stamped, lithographed or engraved.

(3) A debenture may be made payable to bearer or to a named person or bearer and the full amount of it shall be recoverable notwithstanding its negotiation by the corporation at a discount. 3-4 Geo. V. c. 43, s. 314.

315. Where the interest for one year or more on the debentures issued under a by-law heretofore or hereafter passed and the principal of any debenture which has matured has been paid by the corporation the by-law and the debentures issued under it shall be valid and binding upon the corporation. 3-4 Geo. V. c. 43, s. 315.

Debentures on which payment has been made for one year to be valid.

316.—(1) Where a debenture contains or has endorsed upon it a provision to the following effect:—

"This debenture, or any interest therein, shall not, after a certificate of ownership has been indorsed thereon by the treasurer of this corporation, be transferable, except by entry by the treasurer or his deputy in the Debenture Registry Book of the Corporation at the _____ of _____."

the treasurer, on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to

Debenture
registry
book.

be called the Debenture Registry Book, a copy of the certificate and of every certificate which is subsequently given and shall also enter in such book a memorandum of every transfer of such debenture.

Requirements
as to endorsing
certificate of
ownership.

(2) A certificate of ownership shall not be endorsed on a debenture, except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, which authority shall be retained and filed by the treasurer.

Transfer by
entry in
registry book.

(3) After a certificate of ownership has been endorsed the debenture shall be transferable only by entry by the treasurer or his deputy in the Debenture Registry Book, as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney. 3-4 Geo. V. c. 43, s. 316.

Borrowing
by hypothecation
of debentures.

317.—(1) A council, pending the sale of a debenture, or in lieu of selling it, may by by-law or resolution authorize the head and treasurer to raise money by way of loan on such debenture and to hypothecate it for the loan.

Application of
proceeds of
loan.

(2) The proceeds of every such loan shall be applied to the purposes for which the debenture was issued, but the lender shall not be bound to see to the application of the proceeds and, if the debenture is subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan. 3-4 Geo. V. c. 43, s. 317.

Debentures,
etc., not to
be for less
sums than
\$100.

318.—(1) Subject to subsection 2, a corporation shall not make or give any bond, bill, note, debenture or other undertaking for the payment of a less amount than \$100; and any such bond, bill, note or debenture shall be void.

Proviso as to
debentures
issued for
sums which
include prin-
cipal and
interest.

(2) A debenture heretofore or hereafter issued under the authority of any by-law, providing for payment of principal and interest together yearly so computed and apportioned that the sum of both principal and interest is an equal annual sum of not less than \$100, whether the debenture is issued with or without coupons, shall be deemed to be a debenture of not less than \$100 within the meaning of this section, and all debentures heretofore or hereafter so issued under such a by-law and otherwise legal shall be valid. 3-4 Geo. V. c. 43, s. 318.

TEMPORARY LOANS.

Borrowing
sums for
current
expenditure.

319.—(1) A council may either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow on such security, if any, as the by-law may authorize, such sums as the council may deem necessary to meet the current ordinary expenditure of the corporation, and the sums required to be raised in the current year for High and Public School purposes until the taxes are collected.

(2) The amount so borrowed and outstanding shall not at any time exceed in the case of a county the amount required to be provided for by the county rate for the current year, and in the case of a local municipality the following percentages of its ordinary expenditure for the next preceding year, together with the amount required to be raised for High and Public School purposes for the current year;

Limit of
borrowing
power.

(a) In the case of a town, village or township, any part of which is situate within 2 miles of a city having a population of not less than 100,000—80 per cent.;

(b) In the case of a city and of any other town, village or township—90 per cent.

(3) If the council authorizes the borrowing of any larger sum, every member who votes therefor shall be disqualified from holding any municipal office for two years.

Disqualifica-
tion of
members
voting to
exceed limit.

(4) The lender shall not be bound to establish the necessity of borrowing the sum lent. 3-4 Geo. V. c. 43, s. 319.

Lender
not put on
inquiry.

320. When a corporation has heretofore guaranteed or hereafter guarantees the payment of the principal or interest of any bonds or debentures and default is made in payment of the principal or interest by the person primarily liable therefor, the council of such corporation may agree with any bank or person for temporary advances to meet the amount in default in any one year pending the collection of such amount by a rate on all the rateable property in the municipality, or where the guarantee is by or on behalf of a section or portion of a township by a rate on all the rateable property in such section or portion. 3-4 Geo. V. c. 43, s. 320.

Power to
borrow
to meet
guarantee
of debentures.

PART XV.

ACQUISITION OF LAND AND COMPENSATION.

LAND TAKEN OR INJURIOUSLY AFFECTED.

321. In this Part:

Interpreta-
tion.

- (a) "Expropriation" shall mean taking without the consent of the owner, and "Expropriate" and "Expropriating" shall have a corresponding meaning.
- (b) "Land" shall include a right or interest in, and an easement over, land;
- (c) "Owner" shall include mortgagee, lessee, tenant, occupant, and a person entitled to a limited estate or interest in land, a trustee in whom land is vested, a committee of the estate of a lunatic, an executor, an administrator, and a guardian;

"Expropriation."

"Land."

"Owner."

"The Judge."

(d) "The Judge" shall mean, in the case of an arbitration as to the compensation for land expropriated, or for injuriously affecting land, a Judge of the County or District Court of the county or district in which the land or any part of it is situate, and in the case of any other arbitration, if the corporation of one municipality only is a party to it, a Judge of the County or District Court of the county or district in which the municipality, if it is a local municipality, is situate, or, if it is a county, of that county, and if the corporations of two or more municipalities are parties to the arbitration, a Judge of the Supreme Court. 3-4 Geo. V. c. 43, s. 321.

Power to acquire or expropriate land.

322.—(1) The council of every corporation may pass by-laws for acquiring or expropriating any land required for the purposes of the corporation, and for erecting buildings thereon, and may sell or otherwise dispose of the same when no longer so required.

Taking more land than required.

(2) Where in the exercise of its powers of acquiring or expropriating land it appears to the council that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the council may acquire or expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required.

Land to be described in by-law, etc.

(3) A by-law for entering on or expropriating land shall contain a description of the land, and, if it is proposed to expropriate an easement or other right in the nature of an easement, a statement of the nature and extent of the easement to be expropriated. 3-4 Geo. V. c. 43, s. 322.

Sale of land by council when not to be open to question.

323. The determination of a council as to the time when, the manner in which, the price for which or the person to whom any property of the corporation, which the council may lawfully sell, shall be sold, shall not be open to question, review or control by any Court, if the purchaser is a person who may lawfully buy, and the council acted in good faith. 3-4 Geo. V. c. 43, s. 323.

Power to enter on land after expropriation by-law passed.

324.—(1) At any time after the passing of a by-law for entering on or expropriating land the corporation, by leave of the Judge and upon payment into the Supreme Court of a sum sufficient, in the opinion of the Judge, to satisfy the compensation, may enter upon the land, and, if any resistance or forcible opposition is made to its so doing, the Judge may issue his warrant to the Sheriff of the County or District in which the land lies to put the corporation in possession, and to put down such resistance or opposition which the Sheriff, taking with him sufficient assistance, shall accordingly do.

²¹ (2) Leave of the Judge and payment into Court shall not be necessary where the land is being expropriated for or in connection with the opening, widening, altering or diverting a highway unless upon application by the owner a Judge of the Supreme Court otherwise directs. 3-4 Geo. V. c. 43, s. 324.

When leave and payment into Court not required.

325.—(1) Where land is expropriated for the purposes of a corporation, or is injuriously affected by the exercise of any of the powers of a corporation or of the council thereof, under the authority of this Act or under the authority of any general or special Act, unless it is otherwise expressly provided by such general or special Act, the corporation shall make due compensation to the owner for the land expropriated, or where it is injuriously affected by the exercise of such powers for the damages necessarily resulting therefrom, beyond any advantage which the owner may derive from any work, for the purposes of, or in connection with which the land is injuriously affected.

Owners of lands taken, etc., by corporation, etc., to be compensated.

(2) The amount of the compensation, if not mutually agreed upon, shall be determined by arbitration.

Arbitration.

(3) Where fencing or additional fencing will become necessary, owing to land having been expropriated, the cost of it shall be included in the compensation.

Fencing.

(4) Where part only of the land of an owner is expropriated, there shall be included in the compensation a sum sufficient to compensate him for any damages directly resulting from severance. 3-4 Geo. V. c. 43, s. 325.

Damages resulting from severance.

326.—(1) Except where the person entitled to the compensation is an infant, a lunatic, or of unsound mind, a claim for compensation for damages resulting from his land being injuriously affected shall be made in writing, with particulars of the claim, within one year after the injury was sustained, or after it became known to such person, and, if not so made, the right to compensation shall be forever barred.

Claim for compensation, when and how to be made.

(2) In the case of an infant, a lunatic, or a person of unsound mind, the claim shall be so made within the same period, or within one year after he ceased to be under the disability, whichever shall be the longer, or in case of his death while under the disability within one year after his death, and, if not so made, the right to compensation shall be forever barred.

Case of infant, lunatic, etc.

(3) This section shall not apply where the expropriating by-law provides for acquiring an easement or right in the nature of an easement, and the damages arise from the exercise of such easement or right. 3-4 Geo. V. c. 43, s. 326.

Exception, as to acquiring easement.

Appointment of person to act for owner who is unknown or cannot be found.

327.—(1) If the owner of the land is unknown, or cannot be found, or if there is no person competent to contract with the corporation for the sale to it of the land, and to convey it to the corporation, the Judge may, on the application of the corporation, appoint a person to act for the owner, and all acts done, contracts made, and conveyances executed by such person, shall be as valid and effectual as if the same were done, made or executed by the owner, and he were of full age and competent to do the act, make the contract or execute the conveyance.

Payment of compensation into Court.

(2) In the cases provided for by subsection 1, the amount of the compensation agreed upon or awarded shall be paid into the Supreme Court, with the privity of the Accountant of the Supreme Court, subject to further order. 3-4 Geo. V. c. 43, s. 327.

Compensation to stand in the stead of land.

328. The compensation shall stand in the place of the land, and shall be subject to the limitations and charges, if any, to which the land was subject; and any claim to or incumbrance upon the land, or any part of it, as against the corporation, shall be converted into a claim upon the compensation. 3-4 Geo. V. c. 43, s. 328.

Interest on compensation.

329.—(1) Where it is made to appear to a Judge of the Supreme Court that for any reason it is proper that the compensation should be paid into Court, the Judge may give leave to the corporation to pay it into Court, with interest at the rate of six per cent. per annum for six months.

Notice of payment into court.

(2) Notice of the payment into Court, and calling upon all persons entitled to the land, or any part of it, to file their claims to the compensation, or any part of it, shall be published in such newspaper and for such time as the Judge may direct.

Claims, how determined.

(3) All claims to or upon the compensation shall be determined by a Judge of the Supreme Court or in such manner as he may direct.

Costs.

(4) The costs of the proceedings, including allowances to witnesses, shall be paid by the corporation or by such person as the Judge may direct.

Refund of interest.

(5) If an order for distribution is obtained in less than three months from the payment into Court the Judge may direct a proportionate part of the interest to be returned to the corporation.

Payment into court to discharge corporation.

(6) The payment into Court shall discharge the corporation from all liability in respect of the compensation. 3-4 Geo. V. c. 43, s. 329.

Order vesting land in corporation.

330. After payment into Court of the compensation, a Judge of the Supreme Court may, upon the application of the corporation, make an order, vesting in the corporation

the land in respect of which the compensation was payable, and the order shall have the same effect as a vesting order made under the provisions of *The Judicature Act*. 3-4 Geo. V. c. 43, s. 330. Rev. Stat. c. 56.

331.—(1) Where the council of a city or town is desirous of entering upon any work or undertaking, for which land is required to be expropriated, or in the execution of which, land may be injuriously affected, the council may file, in the office of the clerk, plans and specifications of the work or undertaking, which shall show the names of the owners of the land to be affected, the land to be expropriated, and the nature and extent of any easement, or right in the nature of an easement, to be acquired, or certified copies of such plans and specifications. Taking, etc., lands for public work. Filing plans and specifications.

(2) The clerk shall cause to be served upon every owner of land to be expropriated, or which may be injuriously affected, a notice of the council's intention to proceed with the work or undertaking, and to expropriate the land necessary therefor, and that such plans and specifications may be inspected at his office, and that any claim for compensation on account of the land being injuriously affected must be filed in his office, with a statement of the amount claimed, within sixty days, or, if the person served resides out of Ontario, within ninety days, from the service of the notice. Service of notice of intention to construct works, etc. Filing of claim.

(3) If a claim is not so filed within the period mentioned in subsection 2, it shall be forever barred, unless, upon application to a Judge of the Supreme Court, made not later than one year from the service of the notice, and after seven days' notice to the corporation, the Judge allows the claim to be made. Claim not filed to be barred.

(4) Either party may appeal from the decision of the Judge to a Divisional Court. Appeal.

(5) Nothing in this section shall have the effect of barring a claim if the plans and specifications filed do not disclose or sufficiently disclose that the injury in respect of which the claim is made will be caused by the work or undertaking. Claims not barred where plans insufficient.

(6) This section shall not apply to the claim of an infant, a lunatic or a person of unsound mind, or where the expropriating by-law provides for acquiring an easement or right in the nature of an easement and the land is injuriously affected by the exercise of such easement or right. 3-4 Geo. V. c. 43, s. 331. For claims of infants, lunatics, etc.

PART XVI.

ARBITRATIONS.

332. The provisions of this Part shall be subject to *The Municipal Arbitrations Act*. 3-4 Geo. V. c. 43, s. 332.

Application of certain Acts. Rev. Stat. c. 199.

Rev. Stat. c. 65.

333. Except where otherwise provided, *The Arbitration Act* shall apply to an arbitration under this Act. 3-4 Geo. V. c. 43, s. 333.

In case several persons interested in property taken, etc.

334. In case of an arbitration as to compensation where more persons than one are interested, but have distinct interests in the land, whether or not they are all interested in the same parcel, or some or one in one part of it, and some or one in another part, the council may by the expropriating by-law or by any subsequent by-law provide that the claims of all such persons shall be determined by one and the same arbitration. 3-4 Geo. V. c. 43, s. 334.

Appointment of arbitrators.

335.—(1) Subject to section 339 and to subsection 7 of this section where an arbitration is directed or authorized by this Act, either party may appoint his arbitrator, and give notice thereof in writing to the other party, calling upon him to appoint his arbitrator.

Service of copy of expropriating by-law.

(2) Where the arbitration is as to compensation and the notice is given by the corporation there shall be served with it a copy of the expropriating by-law, certified under the hand of the clerk and the seal of the corporation to be a true copy.

Manner of appointing arbitrator.

(3) The appointment of an arbitrator shall be in writing, and, in the case of a municipal corporation, shall be by by-law of the council, or by the head, or a member of the council, if authorized by by-law to make the appointment.

Appointment of party notified.

(4) The party notified, except in the case provided for by subsection 5, shall within seven days after service of the notice on him appoint his arbitrator and give notice to the other party of the appointment.

Where several persons interested.

(5) In the case provided for by section 334 the persons interested shall within 21 days after service of the notice on them agree upon and appoint their arbitrator and give notice to the other party to the arbitration of the appointment.

Appointment of third arbitrator by appointed arbitrators.

(6) The arbitrators shall, within seven days from the appointment of the last appointed of them, appoint by writing a third arbitrator.

Where more than two municipalities interested.

(7) Where more than two municipal corporations are interested, each shall appoint an arbitrator, and, if there is an equality of arbitrators, the arbitrators so appointed shall appoint another arbitrator, or in default at the expiration of twenty-one days after the last of such arbitrators was appointed, the Municipal Board may, on the application of any one of the corporations interested, appoint the other arbitrator. 3-4 Geo. V. c. 43, s. 335.

Appointment of arbitrator by Judge.

336.—(1) Except in the case provided for by subsection 7 of section 335, if an arbitrator is not appointed by the party notified within seven days, or in the case provided for

by section 334 within twenty-one days after notice to appoint an arbitrator, or, if the two arbitrators appointed do not, within seven days from the appointment of the last appointed one of them, appoint a third arbitrator, the Judge, on the application of either party, and on notice to the other, shall appoint as arbitrator, or third arbitrator, a fit person to act for the party who has failed to appoint, or as such third arbitrator.

(2) Where the arbitration is as to compensation the arbitrator appointed by the Judge shall not be a resident of the municipality in which the land is situate. 3-4 Geo. V. c. 43, s. 336. When resident of municipality not to be appointed.

337. The appointment of an arbitrator by a municipal corporation shall not be deemed to be an admission of any liability on its part, and all defences and objections that would be open in an action shall be open to either party. 3-4 Geo. V. c. 43, s. 337. Appointment of arbitrators not to be deemed an admission of liability.

338. No member, officer or person in the employment of a corporation which, and no person who, is concerned or interested in an arbitration, shall be appointed or act as an arbitrator, but no person shall be disqualified by reason merely that he is a ratepayer of a municipality concerned or interested in the arbitration. 3-4 Geo. V. c. 43, s. 338. Persons disqualified from acting as arbitrators.

339. Where the arbitration is as to compensation and the amount claimed does not exceed \$1,000, the same shall be determined by the Judge or by such person as he, on application to him by either the corporation or the claimant upon at least seven days' notice to the other, may appoint. 3-4 Geo. V. c. 43, s. 339. Arbitrator when claim under \$1,000.

PROCEDURE.

340.—(1) Every arbitrator, before proceeding with the reference, shall take and subscribe the following oath: Oath of arbitrators.

"I (A.B.) swear (or affirm) that I will well and truly try the matters referred to me by the parties, and a true and impartial award make in the premises, according to the evidence and my skill and knowledge."

(2) The omission of an arbitrator to take the oath shall not affect the validity of the award unless before the reference is begun objection is made to its being proceeded with on that account. 3-4 Geo. V. c. 43, s. 340. Effect of omission to take oath.

341.—(1) The arbitrators shall, within twenty days after the appointment of the last appointed arbitrator, meet at such place as they may agree upon and proceed with the reference, but may adjourn from time to time. Time of meeting, etc.

(2) A copy of the award shall be filed with the clerk of every municipality interested. 3-4 Geo. V. c. 43, s. 341. Filing copy of award.

Particulars
of claim to
be delivered.

342.—(1) In the case of a claim for compensation for damages for injuriously affecting land, the claimant, before the taking of evidence is begun, shall deliver to the corporation, and file with the arbitrators, particulars of his claim.

Amendment
of Claim.

(2) The arbitrators shall have the same power to amend the claim or the particulars as a Court would have in an action. 3-4 Geo. V. c. 43, s. 342.

Limit of
cumulative
evidence.

343. Where the arbitration is as to compensation, the arbitrators, in their discretion, may refuse to hear further evidence of a cumulative character upon any matter or question. 3-4 Geo. V. c. 43, s. 343.

Costs.

344.—(1) The arbitrators may award a fixed sum for costs or may award costs on the scale of the Supreme Court, or of the County Court, in which case they shall be taxed by the proper officer of the Court in the county or district in which the first meeting of the arbitrators was held, without any further order, and the amount shall be payable within one week after it is finally determined.

Taxation
of costs.

(2) The taxation, except where the costs are taxed by one of the taxing officers of the Supreme Court, shall be subject to revision by one of them, upon one week's notice, and such revision shall be subject to appeal as in the case of an appeal from a taxation of costs in an action. 3-4 Geo. V. c. 43, s. 344.

When an
appeal lies
from an
award.
Rev. Stat. c. 65.

345.—(1) An appeal shall lie from every award in like manner as an appeal lies under *The Arbitration Act* where the submission provides for an appeal from the award.

(2) Subsection 1 shall not apply where the submission is in writing, and it is not agreed by the terms of it that there may be an appeal from the award.

Power of
Supreme
Court
on appeal.

(3) On an appeal from an award the Supreme Court may call for and receive additional evidence to be taken in such manner as the Court directs, and may set aside the award or remit the matters referred or any of them, from time to time, for reconsideration and determination by the arbitrators, or may refer such matters or any of them to any other person, and may fix the time within which the further or new award shall be made, or may increase or diminish the amount awarded, or otherwise modify the award, as may be deemed just, and a Divisional Court shall have the like power and authority. 3-4 Geo. V. c. 43, s. 345.

Arbitrators
to file cer-
tificate
showing
time occu-
pied and
fees
charged.

346.—(1) Each of the arbitrators shall file with the clerk of the municipality a certificate showing the number of hours actually occupied by him in the reference, the number of hours occupied at each sitting, and the date of and the fees charged by him for each sitting.

(2) Any party to the reference may pay to the Clerk of the County or District Court of the county or district in which the first meeting of the arbitrators was held the fees demanded by the arbitrators, together with \$10 as security for the costs of the taxation of such fees, and the clerk shall give a receipt in duplicate for the same, and shall enter the payment in a book to be kept by him for the purpose, and he shall be entitled to receive to his own use from such party, when the sum paid does not exceed \$50, a fee of fifty cents, and when the sum paid exceeds \$50 a fee of \$1, and upon production and delivery of one of the duplicates the arbitrators shall deliver the award to the person producing the duplicate. 3-4 Geo. V. c. 43, s. 346.

Payment of arbitrators' fees on taking up award.

347. Where the arbitration is as to compensation, if the expropriating by-law did not authorize or profess to authorize any entry on or use to be made of the land before the award, except for the purpose of survey, or if the by-law gave or professed to give such authority, but the arbitrators by their award find that it was not acted upon, the award shall not be binding on the corporation, unless it is adopted by by-law, within three months after the making of the award; and if it is not so adopted, the expropriating by-law shall be deemed to be repealed, and the corporation shall pay the costs between solicitor and client of the reference and award, and shall also pay to the owner the damages, if any, sustained by him in consequence of the passing of the by-law, and such damages if not mutually agreed upon shall be determined by arbitration. 3-4 Geo. V. c. 43, s. 347.

Award not to be binding in certain cases unless adopted by by-law.

PART XVII.

ACTIONS BY AND AGAINST MUNICIPAL CORPORATIONS.

348. Where a duty, obligation, or liability is or has been heretofore imposed by statute upon any person in favour of a municipal corporation, or the inhabitants, or some of the inhabitants of a municipality, or where a contract or agreement is or has heretofore been entered into, which imposes such a duty, obligation, or liability, the corporation shall have the right by action to enforce it, and to obtain as complete and as full relief and remedy as could be obtained in an action by the Attorney-General, as plaintiff, or as plaintiff on the relation of any person interested, or in an action by such inhabitants or one or more of them, on his or their own behalf, or on behalf of himself or themselves and of such inhabitants. 3-4 Geo. V. c. 43, s. 348.

Right of action of municipal corporation to enforce agreements, etc.

349. An action shall not be brought for anything done under a by-law, order or resolution of a council which is invalid, in whole or in part, until one month after the by-

Corporation to be liable for acts done under illegal by-law.

law, order or resolution, or so much of it as is invalid, has been quashed or repealed, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. 3-4 Geo. V. c. 43, s. 349.

PART XVIII.

RESPECTING THE ADMINISTRATION OF JUSTICE.

JUSTICES OF THE PEACE.

Certain persons to be ex-officio Justices of the Peace.

350. The head of every council, the reeve of every town, and every deputy reeve, after he has made the declarations of office and qualification, shall, *ex officio*, be a Justice of the Peace for the whole county, and every controller and alderman in a city, after he has made such declarations, shall be, *ex officio*, a Justice of the Peace for the city. 3-4 Geo. V. c. 43, s. 350.

Justice may act although member of council.

351. A Justice of the Peace shall not be disqualified from acting in the case of a prosecution for a breach of a by-law of a council,

(a) By reason of his being a member of the council; or

(b) Because the penalty or part of it goes to the corporation of a municipality of which he is a rate-payer. 3-4 Geo. V. c. 43, s. 351.

POLICE OFFICE IN CITIES AND TOWNS.

Police office.

352. The council of every city and town shall establish and maintain therein a Police Office. 3-4 Geo. V. c. 43, s. 352.

Police magistrate to attend daily.

353.—(1) The Police Magistrate, or, if he is absent or ill, or if there is a vacancy in the office, the Deputy Police Magistrate, shall attend at the Police Office daily for such period as may be necessary for the disposal of the business to be done.

Mayor to attend where no police magistrate.

(2) In a town for which there is not a Police Magistrate the Mayor shall attend at the Police Office daily, or at such time and for such period as may be necessary for the disposal of the business that may be brought before him as a Justice of the Peace.

Case of illness or absence of police magistrate.

(3) In a city or town for which there is a Police Magistrate, if he is absent or ill, and there is no Deputy Police Magistrate, or if the Deputy Police Magistrate is also absent or ill, the Mayor shall attend in the place of the Police Magistrate, but shall have only the powers of a Justice of the Peace.

(4) A Justice of the Peace having jurisdiction in a city or town may, at the request of the Mayor, act in his stead. When Justice may act.

(5) The council shall provide all necessary and proper accommodation, fuel, light, stationery and furniture for the Police Office, and for the officers connected with it. Accommodation, etc., for police office.

(6) The clerk of the council of the city or town, or such other person as the council appoints for that purpose, shall be the clerk of the Police Office, and shall perform the same duties and receive the same fees and emoluments as a clerk of a Justice of the Peace. Clerk of police office and his duties.

(7) Where the clerk of the council is paid by a salary, the fees and emoluments shall be paid over by him and belong to the corporation. If paid by salary, fees to belong to corporation.

(8) Where there is a Police Magistrate, the clerk of the Police Office shall be under his control. 3-4 Geo. V. c. 43, s. 353. Clerk to be under control of magistrate.

BOARDS OF COMMISSIONERS OF POLICE AND POLICE FORCE IN CITIES AND TOWNS.

354.—(1) Notwithstanding the provisions of any special Act, there shall be for every city, and there may be constituted by the council thereof for every town having a Police Magistrate, a Board of Commissioners of Police. Constitution of Board.

(2) The Board shall consist of the Mayor, a Judge of the County or District Court of the county or district in which the city or town is situate, and the Police Magistrate. Who to be members.

(3) If there are two or more Judges for the county or district, the Lieutenant-Governor in Council shall designate the Judge who is to be a member of the Board. Designating judge where more than one.

(4) If the Police Magistrate is absent from Ontario, the Deputy Police Magistrate shall act in his stead during his absence. Absence of police magistrate.

(5) If the office of Judge or that of Police Magistrate is vacant, the council shall fill the vacancy on the Board by appointing a resident of the municipality to act during the vacancy. Vacancy in office of judge or police magistrate.

(6) In case of the illness or absence from Ontario of the Mayor, or of the office being vacant, the person appointed as presiding officer of the council shall act instead of the Mayor. Illness or absence of mayor.

(7) The council of a city may provide for the payment of a reasonable remuneration for his services as a member of the Board to the Judge, or to any person appointed to fill the vacancy while the office of Judge or Police Magistrate is vacant. Remuneration of judge, etc.

Repeal of
by-law
constituting
board.

(8) The by-law of the council of a town may at any time be repealed, and, if repealed, the Board shall, on the first day of January next after the passing of the repealing by-law, be dissolved.

(9) Subsection 8 shall also apply to a Board constituted before the 24th day of March, 1874, and existing on that day. 3-4 Geo. V. c. 43, s. 354.

Board may
examine
witnesses
on oath.

355.—(1) The Board shall have the same power to summon and examine witnesses on oath as to any matter connected with the execution of its duties, to enforce their attendance, and to compel them to give evidence as is vested in any Court of law in civil cases.

Force of
notice to
attend be-
fore Board.

(2) It shall be the duty of every person served with a notice to attend before the Board, signed by a member of it, to attend pursuant to the notice, and the notice shall have the same effect as a subpoena. 3-4 Geo. V. c. 43, s. 355.

Chairman.

356.—(1) The Board shall, in each year, at its first meeting held after the Mayor has made the declarations of office and qualification, elect a chairman.

Quorum.

(2) A majority of the members of the Board shall constitute a quorum.

Meetings
in cities to
be open to
public.

(3) The meetings of the Board shall be open to the public, unless otherwise directed by the Board. 3-4 Geo. V. c. 43, s. 356.

How by-law
of Board
authenticated
and
proved.

357.—(1) A by-law of the Board shall be sufficiently authenticated if signed by its chairman or acting chairman, and a by-law purporting to be so signed shall be received in evidence in all courts without proof of the signature.

(2) A copy of a by-law purporting to be certified by a member of the Board to be a true copy shall be received in evidence in all Courts without proof of the signature. 3-4 Geo. V. c. 43, s. 357.

HIGH BAILIFF AND POLICE FORCE.

High
bailiffs.

358. The council of every city shall appoint a high bailiff but may provide that the offices of high bailiff and chief constable shall be held by the same person. 3-4 Geo. V. c. 43, s. 358.

Police
force in
cities and
towns.

359. The police force in cities and in towns having a Board of Commissioners of Police shall consist of a chief constable and as many constables and other officers and assistants as the council may deem necessary, but, in cities, not less than the Board reports to be absolutely required. 3-4 Geo. V. c. 43, s. 359.

360. The members of the police force shall be appointed by and hold office during the pleasure of the Board, and shall take and subscribe an oath similar to that set out in section 20 of *The Constables Act*. 3-4 Geo. V. c. 43, s. 360. Appoint-ment of members of police force. Rev. Stat. c. 91.

361. The Board may make regulations for the government of the police force, for preventing neglect or abuse, and for rendering it efficient in the discharge of its duties. 3-4 Geo. V. c. 43, s. 361. Board to make regulations.

362. The members of the police force shall be subject to the government of the Board and shall obey its lawful directions. 3-4 Geo. V. c. 43, s. 362. Police officers to be subject to the Board.

363.—(1) The council shall appropriate for and pay such remuneration to the members of the police force as the Board may determine, and shall provide and pay for all such offices, watch-houses, watch-boxes, arms, accoutrements, clothing and other things as the Board may deem requisite and require for the accommodation, use and maintenance of the force. Remuneration of police officers.

(2) The council may pay any sum required for the protection, defence or indemnification of any member of the police force, where an action or prosecution is brought against him, and costs are necessarily incurred or damages are recovered, if the Board certifies that the case is a proper one for such payment or indemnity. 3-4 Geo. V. c. 43, s. 363. Indemnifying police officers.

364. The council of every town not having a Board shall, and the council of every village may, appoint one chief constable and one or more constables. 3-4 Geo. V. c. 43, s. 364. Constables in towns and villages.

365. The council of a county and of a township may appoint one or more constables. 3-4 Geo. V. c. 43, s. 365. County and township constables.

366.—(1) The members of a police force, the high bailiffs and the constables appointed under the authority of this Part shall have the same powers and privileges, be subject to the same liability, perform the same duties, be subject to suspension in the same manner, and may act within the same limits, as a constable appointed by the Court of General Sessions of the Peace. Powers of police officers, constables, etc.

(2) The provisions of subsection 1, as to suspension, shall not apply to a member of the police force of a city or town which has a Board of Commissioners of Police. 3-4 Geo. V. c. 43, s. 366.

367. The members of a police force, a high bailiff, a chief constable and the constables appointed under this Part shall be charged with the duty of preserving the peace, preventing robberies, and other crimes and offences, including offences against the by-laws of the municipality, and of apprehending offenders, and laying information before the proper tribunal, Duties of police officers, constables, etc.

and prosecuting and aiding in the prosecution of offenders. 3-4 Geo. V. c. 43, s. 367.

[As to appointment of High Constable by county, see *The Constables Act, Rev. Stat. c. 94, s. 8.*]

Salary and remuneration.

368.—(1) The council by which a high bailiff, chief constable or a constable is appointed under the authority of this Part may provide for the payment to him of such salary or remuneration as the council may determine.

Fees of salaried constable.

(2) The council may agree with a salaried constable appointed either by the council or by the Board of Commissioners of Police that he shall keep for his own use the fees of his office or may require them to be paid to the treasurer for the use of the corporation. 3-4 Geo. V. c. 43, s. 368.

Arrests without warrant by constables for alleged breaches of the peace.

369. Where any person complains to the chief constable or a constable of a city or town that a breach of the peace has been committed, and that officer has reason to believe that it has been committed, though not in his presence, and that there is good reason to apprehend that the arrest of the person charged with committing it is necessary to prevent his escape or a renewal of the breach of the peace, or immediate violence to person or property, if the person complaining gives satisfactory security to the officer that he will, without delay, appear and prosecute the charge the officer may, without warrant, arrest or cause to be arrested the person charged in order to his being brought as soon as conveniently may be before the police magistrate or a justice of the peace to be dealt with according to law. 3-4 Geo. V. c. 43, s. 369.

When mayor or police magistrate may suspend constable.

370.—(1) If there is no Board of Commissioners of Police for a town, the Mayor or the Police Magistrate may suspend from office, for any period in his discretion, the chief constable or any constable of the town and may appoint some other person to the office during such period; and, if he considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, so report to the council, and the council may dismiss such officer or may direct him to be restored to his office after the period of suspension has expired.

Incapacity of such officer to act. Salary to cease.

(2) During suspension the officer shall not act except with the written permission of the Mayor or Police Magistrate who suspended him or be entitled to any salary or remuneration. 3-4 Geo. V. c. 43, s. 370.

COURT HOUSES, GAOLS, ETC.

Establishment.

Existing county and district towns continued.

371. Until otherwise provided by law the existing county and district towns shall continue to be the county and district towns of the counties and districts in which they are respectively situate. 3-4 Geo. V. c. 43, s. 371.

372.—(1) The corporation of every county shall provide County to provide court house and gaol.

(2) The Court House and the Gaol shall be sufficient for the purposes of every city and separated town which forms part of the county for judicial purposes as well as for the purposes of the county. Sufficient for county and city.

(3) The Gaol shall be provided and maintained in conformity with the provisions of *The Gaols Act*, and to the satisfaction of the Lieutenant-Governor in Council. Maintenance of gaol. Rev. Stat. c. 293.

(4) Subsection 2 shall not apply to the Court House if the city has a Court House of its own, or to the Gaol if the city has a gaol of its own. 3-4 Geo. V. c. 43, s. 372.

373.—(1) The council of a county or of a city may pass by-laws for erecting, enlarging or improving a court house or gaol, and shall keep the same in repair and provide the food, fuel and other supplies required therefor. County council may pass by-laws as to county buildings.

(2) The corporation of a county may acquire land within a city or separated town which is the county town for the purpose of erecting and may erect thereon a court house, a gaol and buildings for use as a county hall and for offices for the county officials. 3-4 Geo. V. c. 43, s. 373. Acquiring land for court houses.

374. The court house and gaol of the county in which a city or separated town is situate shall, except where the city has provided one for itself, be the court house or gaol, as the case may be, of the city or town, and the sheriff and gaoler shall receive and safely keep, until duly discharged, all persons committed to the gaol by any competent authority of the city or town. 3-4 Geo. V. c. 43, s. 374. Gaols and court houses in counties and cities, etc., not separated.

Care of Court Houses and Gaols.

375.—(1) The sheriff shall have the care of the county gaol, gaol offices and yard, and gaoler's apartments, and the appointment of the gaoler and officers of the gaol, whose salaries shall be fixed by the county council, subject to the revision or requirement of the Inspector of Prisons and Public Charities. Custody of gaols. Keepers.

(2) The appointment or dismissal of a gaoler shall be subject to the approval of the Lieutenant-Governor in Council. 3-4 Geo. V. c. 43, s. 375. Appointment and dismissal of gaolers.

376. A gaoler or an officer of the gaol shall not demand or receive any fee, perquisite or other payment from any prisoner. 3-4 Geo. V. c. 43, s. 376. Gaoler not to accept fees.

377.—(1) The county council shall have the care of the court house and of all offices, rooms and grounds connected therewith, whether the court house is a separate building or is connected with the gaol, and the appointment of the care-County council to have care of court house, etc.

takers thereof, and shall, from time to time, provide all necessary and proper accommodation, fuel, light, stationery and furniture for the Provincial Courts of Justice, other than the Division Courts, and for the library of the Law Association of the county, such last mentioned accommodation to be provided in the court house, and proper offices, together with fuel, light, stationery and furniture, and, when certified by the Attorney-General to be necessary, with type-writing machines, for all officers connected with such Provincial Courts, other than the Crown Attorney of the City of Toronto. (*As to Division Courts, see Rev. Stat. c. 63.*)

(2) The council of the Corporation of the City of Toronto shall provide proper offices, with fuel, light, stationery and furniture for the Crown Attorney of the City.

Liability
for furni-
ture for use
of county
officials.

(3) A corporation shall not be liable to pay for furniture unless it has been ordered by the council or by some person authorized by it so to do. 3-4 Geo. V. c. 43, s. 377.

City gaols
to be regu-
lated by
by-laws of
city council.

378. The care of the gaol or court house of a city shall be regulated by by-law of its council. 3-4 Geo. V. c. 43, s. 378.

Costs and Expenses of Court Houses and Gaols.

Liability of
cities and
towns sep-
arated from
counties for
erection
and main-
tenance
of court
house, etc.
Rev. Stat.
c. 124.

379.—(1) A city or a separated town shall, as part of the county for judicial purposes, so long as the county court house or gaol is also that of the city or separated town, bear and pay its just share or proportion of all charges and expenses from time to time incurred for the purposes mentioned in section 23 of *The Registry Act*, and in erecting, enlarging, improving, repairing or maintaining such court house or gaol, and of their proper lighting, cleaning and heating; of drafting, selecting, enrolling and paying jurors; in providing the accommodation and other matters mentioned in subsection 1 of section 377, and of all other charges relating to the administration of justice, except such as the county is entitled to be repaid by the Province, and except charges connected with coroners' inquests and constables' fees and disbursements.

Allowance
to county
for use of
court house
for division
courts.

(2) The use of the court house for the sittings of a Division Court of a Division which comprises the whole or a part of a city or separated town may be taken into account in determining the amount to be paid by the city or town for the maintenance of the court house.

Reference
to arbitra-
tion in
case of dis-
agreement.

(3) If the council of the city or separated town and the council of the county are unable to agree as to the amount to be paid by the city or town, the same shall be determined by arbitration.

(4) The council of a county and of a city or separated town situate in the county may agree: Purchase of land and erection of buildings for municipal and judicial purposes.

(a) To acquire land within the county town for the purpose of erecting thereon buildings for the joint use of the county and city or town for municipal and judicial purposes;

(b) For the erection, maintenance, use, management and control of such buildings;

(c) For fixing the amount which each corporation shall pay or contribute for such purposes;

(d) For the subsequent disposition of such land and buildings, and of any insurance or other money that may be received in respect thereof;

and may pass all such by-laws as may from time to time be necessary for acquiring the land and carrying out the agreement. 3-4 Geo. V. c. 43, s. 379.

As to payment of expenses of shorthand writer and interpreter, see The County Judges Act, Rev. Stat. c. 58, ss. 18 (5), 19.

As to payment by city or separated town of proportion of certain expenses under The Registry Act, see that Act, Rev. Stat. c. 124, s. 8.

380. Where the court house, gaol or registry office was erected before the city or town ceased to be part of the county for municipal purposes the arbitrators may take into account in determining the amount to be paid by the city or town the value of the respective interests of the county and of the city or town in such building and the extent of the use of it by them respectively. 3-4 Geo. V. c. 43, s. 380. What arbitrators to take into account.

381. The corporation of a county, city or separated town shall have, respectively, insurable interests in the county court house and gaol, and the furniture thereof, in the proportions in which they are, for the time being, liable to contribute under section 379. 3-4 Geo. V. c. 43, s. 381. Insurable interests of corporations in certain cases.

382. Where a city is required to contribute to the cost of erecting, enlarging or improving a county court house or gaol, such city shall not be bound to pay for any part of the cost of expenditure, unless it has been concurred in by its council, or, if the council does not concur, the propriety and the amount of the expenditure has been determined by arbitration. 3-4 Geo. V. c. 43, s. 382. Liability of city to contribute to cost of erecting court houses and gaols.

383. The site of the court house or gaol shall be determined by arbitration unless the councils of the county and city agree as to the site. 3-4 Geo. V. c. 43, s. 383. Site for court house or gaol.

Compensation by city or town for use of court house, etc.

384.—(1) A city which uses the county court house or gaol and a separated town shall pay to the county such compensation therefor, and for the care and maintenance of prisoners, as may be mutually agreed upon or determined by arbitration.

Matters to be considered in determining compensation.

(2) In determining the compensation to be paid for the care and maintenance of prisoners, the arbitrators shall, so far as they deem the same just and reasonable, take into consideration the original cost of the site and erection of the gaol and gaol buildings and of repairs and insurance, so far as they have been borne by one or other of the municipalities, and the cost of maintaining and supporting the prisoners, as well as the salaries of all officers and servants connected therewith. 3-4 Geo. V. c. 43, s. 384.

When the amount of compensation may be reconsidered.

385. After five years from the time when the amount of the compensation was agreed upon or determined by arbitration, either under section 379 or after a direction by the Lieutenant-Governor in Council under the authority of this section, the Lieutenant-Governor in Council, upon the application of either corporation, may direct that the existing arrangement shall cease after a day to be named and that the compensation to be paid from that day shall be settled by agreement or be determined by arbitration. 3-4 Geo. V. c. 43, s. 385.

Lock-up houses.

386.—(1) The council of every local municipality may establish, maintain and regulate lock-up houses for the detention and imprisonment of persons sentenced to imprisonment therein for not more than ten days, and of persons detained for examination on a charge of having committed any offence, or for transfer to any common gaol for trial, or in the execution of any sentence; and such persons may be lawfully received and so detained in the lock-up.

Joint lock-up houses.

(2) Two or more local municipalities may unite in establishing, maintaining and regulating a lock-up house, and such lock-up house shall be deemed to be the lock-up house of each of them.

Constable in charge.

(3) Every lock-up house shall be placed in the charge of a constable appointed for that purpose.

Salary.

(4) The council may provide for and pay the salary or other remuneration of the constable in charge of a lock-up. 3-4 Geo. V. c. 43, s. 386.

Payment to be made to county when gaol used as a lock-up.

387.—(1) If a county town has not a lock-up house, approved by the Inspector of Prisons and Public Charities, the county gaol may be used for the purposes of a lock-up house, and if so used the corporation of the county town shall pay yearly to the county treasurer for the use of the county a reasonable sum for the use of the gaol as a lock-up house, and for the expenses incurred by such use; and, in case of

disagreement, the amount to be paid to the county shall be determined by arbitration.

(2) This section shall not apply to cities or separated towns. 3-4 Geo. V. c. 43, s. 387.

388. The cost of conveying a prisoner to, and of keeping him in a lock-up house, shall be defrayed in the same manner as the expense of conveying a prisoner to and keeping him in a common gaol of the county. 3-4 Geo. V. c. 43, s. 388.

Expense of
keeping
prisoners
in lock-up.

Section 409 of 29-30 V. c. 51 (See 36 V. c. 48, s. 367, R. S. O. 1877, c. 174, s. 449, 46 V. c. 18, s. 476 and R. S. C. 1896, Sched. B.), which is not repealed, is as follows:—

409. Any Justice of the Peace of the county may direct by warrant in writing under his hand and seal the confinement in a lock-up house within his county, for a period not exceeding two days, of any person charged on oath with a criminal offence, whom it may be necessary to detain until examined, and either dismissed or fully committed for trial to the common gaol, and until such person may be conveyed to such gaol; also the confinement in such lock-up house, not exceeding twenty-four hours, of any person found in a public street or highway in a state of intoxication or any person convicted of desecrating the Sabbath; and generally may commit to a lock-up house instead of the common gaol or other house of correction, any person convicted on view of the justice, or summarily convicted before any justice or justices of the peace of any offence cognizable by him or them, and liable to imprisonment therefor under any statute or municipal by-law. 29-30 V. c. 51, s. 409.

When liable
to confine-
ment in
lock-up.

INEBRIATE ASYLUMS.

389.—(1) The council of a city having a population of not less than 50,000 may:

Institutions
for reclama-
tion of
habitual
drunkards.

(a) Establish, erect and maintain within the city an institution for the reclamation and cure of habitual drunkards;

(b) Provide that the Mayor, Police Magistrate, or any Justice of the Peace having jurisdiction in the municipality, may send or commit to such institution an habitual drunkard, with or without hard labour.

(2) Sections 62 to 70 of *The Private Sanitarium Act* shall apply to such institution. 3-4 Geo. V. c. 43, s. 389.

Rev. Stat.
c. 296.

COMMITTAL TO INDUSTRIAL FARM.

390. Where a person is convicted of being found drunk or disorderly in a public place contrary to a municipal by-law, within three months after a prior conviction for a like offence, he may be committed by the Police Magistrate or Justice of the Peace, before whom he is convicted, to an Industrial Farm of the locality in which the order for committal is made for an indeterminate period not exceeding two years. 3-4 Geo. V. c. 43, s. 390.

Committal to
Industrial
Farm for
indeterminate
period.

PART XIX.

POLLING SUBDIVISIONS AND POLLING PLACES.

Polling sub-
divisions
and places.

391. By-laws may be passed by the councils of local municipalities for dividing the wards of the city or town, or the village or township into two or more convenient polling subdivisions, and for establishing polling places therein.

Boundaries
of polling
sub-divi-
sions.

- (a) Except in cities, every polling subdivision shall have well-defined boundaries, such as streets, side-lines, concession lines or the like, and shall be formed in the most convenient manner, and so that the number of electors in each polling subdivision shall be as nearly as possible equal.

Number of
electors in a
subdivision.

- (b) Such polling subdivisions shall be made or varied whenever the number of the electors in any polling subdivision in a city having a population of not less than 100,000 exceeds 200, and in any other municipality 300, in such a manner that the number in any polling subdivision shall not exceed 300.

Not to be in
more than
one electoral
district.

- (c) Where a municipality embraces parts of two or more electoral districts, a polling subdivision shall include territory in one electoral district only.

Alteration
of sub-
divisions.

- (d) Subject to clause (f), any alteration of polling subdivisions, or creation of new polling subdivisions, shall be made before the publication of the voters' lists.

Duty of
clerk when
population
exceeds
limit.

- (e) Whenever the clerk finds that the number of electors in a polling subdivision exceeds 200 in a city having a population of not less than 100,000, or 300 in any other municipality, he shall notify the council of the fact.

Changes
made after
voters' list
made up.

- (f) Where such alterations have not been made before the publication of the voters' lists, they shall be made forthwith thereafter, but shall not take effect until the next voters' lists are being prepared.

New sub-
division to
be made
when neces-
sary.

- (g) Whenever the council is of opinion that the convenience of the electors will be thereby promoted the council may make a redivision into polling subdivisions, and such redivision shall be made in conformity with this section.

Determining
number of
electors.

- (h) The number of electors shall be determined by the last revised assessment roll of the municipality.

Subdivi-
sions to be
numbered.

- (i) The polling subdivisions shall be numbered consecutively, and a copy of the by-law, by which they are established, certified under the seal of the cor-

poration and the hand of the clerk to be a true copy, shall, forthwith after the passing thereof, be filed by the clerk in the office of the Clerk of the Peace of the county or district in which the municipality is situate.

- (j) Any 5 electors may at any time within two months Appeal.

after such filing appeal in respect of any polling subdivision to the Judge of the county or district Court of the county or district who shall have power to amend the by-law so as to make it conform with the provisions of this section, and the procedure on the appeal shall be the same as on a motion to quash a by-law, except that no recognition or deposit shall be required.

- (k) An election shall not be irregular or void or void Election not to be voided if subdivision is wrongly formed. able for the reason that a polling subdivision which contains more than the prescribed number of electors has not been divided, if in the case of a city having a population of not less than 100,000 it does not contain more than 300, or in the case of any other municipality more than 400 electors.

- (l) Where a polling subdivision in a city having a Subdivision for election about to be held. population of not less than 100,000 contains more than 300 electors, or a polling subdivision in any other local municipality contains more than 400 electors, or where a local municipality is not subdivided into polling subdivisions the council shall for the purpose of an election about to be held or a vote about to be taken subdivide it into as many subdivisions as may be necessary to provide in the case of such a city one for every 200 electors, and in the case of any other local municipality one for every 300 electors. 3-4 Geo. V. c. 43, s. 391.

392. By-laws may be passed by the councils of urban Uniting polling subdivisions. municipalities for uniting for the purpose of any municipal election, including the election of school trustees, or the voting on a by-law or on a question submitted to the electors, any two adjoining polling subdivisions with one polling place therefor. 3-4 Geo. V. c. 43, s. 392.

393. By-laws may be passed by the councils of cities having a population of not less than 100,000, for providing that Using public school for polling places. a public school house or a public building belonging to or controlled by the corporation in, or conveniently near to a polling subdivision, shall be used as the polling place of such subdivision.

- (a) Where a school house is so used the council shall Payment therefor. forthwith pay to the Board of Education a sum

sufficient to cover any damage done to it and any expense for cleaning or otherwise caused by such use.

Consent of
public
school
board.

(b) No school house shall be so used without the consent of the Board of Education.

Constable
to attend
each such
polling
place.

(c) The board of commissioners of police or the chief constable shall cause a constable to attend at each polling place in a school house or public building in which an election is being held there to perform the duties required by this Act of a constable appointed by the returning officer. 3-4 Geo. V. c. 43, s. 393.

In certain
cases clerk
may choose
polling
place.

394. Where a polling place has been appointed for holding an election, or for taking a vote in a local municipality, and it is afterwards found that the building cannot be obtained, or is unsuitable for the purpose, the clerk may select in lieu of it the nearest suitable building which is available, and he shall post up and keep posted up a notice on the building named in the by-law, and in two other conspicuous places near by, directing the voters to the place so selected. 3-4 Geo. V. c. 43, s. 394.

PART XX.

POWERS OF MUNICIPAL COUNCILS.

Interpretation.

Bonus
defined.

395. "Bonus" where it occurs in sections 278, 288, 396 and 397 shall include:—

- (a) A grant of money as a gift or a loan, either conditionally or unconditionally.
- (b) The guaranteeing of the repayment of money loaned to or the payment of a debt contracted by the person to whom the bonus is granted and the interest thereon.
- (c) The gift or the leasing at a nominal rent of land owned by the corporation or the purchase of land as a site for buildings or works or as a means of access or for any other purpose connected with the manufacturing business to be aided.
- (d) The stopping up, opening, widening, paving or improving of a highway or public place or the undertaking of any work or improvement which involves the expenditure of money by the corporation for the use or benefit of the manufacturing business to be aided.

- (e) The supplying of water, light or power by the corporation either free of charge or at a less rate than that charged to other persons.
- (f) The total or partial exemption from municipal taxation or the fixing of the assessment of any property.
- (g) Generally the doing, undertaking or suffering on the part of the corporation of any act, matter or thing which involves or may involve the expenditure of money by it. 3-4 Geo. V. c. 43, s. 395.

Bonuses in Aid of Manufactures.

396. By-laws may be passed by the councils of all municipalities for granting a bonus for the promotion of manufactures in the municipality, or for the promotion of iron works, rolling mills, works for refining or smelting ore, or the establishment of grain elevators, or aiding a beet sugar factory, within the municipality or an adjacent municipality, to such person, in respect of such branch of industry and on such terms and conditions as to security and otherwise as may be deemed proper.

- (a) No person to whom or who is interested in or holds shares in a company and no nominee of a corporation to which a bonus is to be granted shall be entitled to vote on the by-law. Shareholders not to vote on by-law.
- (b) No by-law shall be passed granting a bonus in respect of a branch of industry of a similar nature to one established in the municipality unless the person by whom it is carried on consents in writing to the granting of the bonus. Industry not to be aided where one of like nature established.
- (c) No by-law shall be passed granting a bonus in respect of a business established elsewhere in Ontario, or which has been removed to the municipality from another municipality in Ontario, whether the business is to be carried on by the same person or by a person deriving title or claiming through or under him or otherwise or by such person in partnership with another person or by a joint stock company or otherwise. Bonus not to be granted to industry already established elsewhere in Ontario.
- (d) No such by-law shall be passed where the granting of the bonus would for its payment and the payment of bonuses already granted require an annual levy for the payment of principal and interest exceeding 10 per cent. of the total amount required to be raised by taxation for the year next preceding the passing of the by-law, but if the bonus is by way of loan or guarantee, any amount to be repaid during the then current year Limitation of power to bonus.

(S. 396)

shall be deducted from the amount of the bonus for the purpose of ascertaining whether the limit of 10 per cent. will be exceeded.

Period of
exemption
or fixed
assessment.

(e) Where the bonus is exemption from taxation or a fixed assessment the same shall not be for a longer period than ten years, but may be renewed from time to time for further periods not exceeding ten years at any one time, and the by-law shall not apply to or affect taxation for school purposes.

Applying
payments
made by per-
sons bonused
in payment
of debentures
and interest.

(f) Where the bonus is by way of loan, the by-law may provide that all money received on account of the loan shall be deposited to a special account in a chartered bank, and that such money, or a sufficient part of it, shall be applied in payment of the amount falling due in such year for principal and interest on account of debentures issued to pay the bonus. 3-4 Geo. V. c. 43, s. 396.

Bonuses in Aid of Railways.

Interpreta-
tion.

397.—(1) In this section

"Railway."

(a) "Railway" shall include a railway operated by steam, electrical or other motive power and a street railway;

"Railway
company."

(b) "Railway company" shall include a person authorized by a special Act to construct a railway, and shall also include a railway company incorporated by or under the authority of the Parliament of Canada or of the late Province of Canada or of this Legislature.

Power to
aid rail-
ways.

(2) By-laws may be passed by the councils of all municipalities for granting a bonus to a railway company for the purpose of securing the construction of a railway in the construction of which the inhabitants of the municipality are interested or through any part of or near to which the railway will pass or the works of the company be situate.

Petition to
council re-
quiring
submission
of by-law
to electors

(3) Upon presentation to the council of a petition expressing the desire to aid the railway company and stating in what way and to what amount signed by a majority of the members of the council, or in the case of a county by at least fifty resident freeholders qualified to vote on the by-law, of each of the local municipalities in the county, or in the case of a local municipality by at least 50 resident freeholders thereof qualified to vote on the by-law, the council shall, within six weeks after the receipt of the petition by the clerk, take the requisite proceedings for submitting, in the manner provided by this Act, a by-law for granting the bonus for the assent of the electors qualified to vote thereon.

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(4) Where the aid is proposed to be given by a county, if a petition signed by 50 resident freeholders of the county against submitting the by-law on the ground that certain of the local municipalities or parts of them would be injuriously affected thereby or on any other ground ought not to be included therein, and if a sum sufficient to defray the expense of the reference is deposited by the petitioners with the treasurer of the county, the council shall forthwith refer the petition to The Municipal Board.

Reference
to Municipal Board
of petition
against
submission
of by-law.

(5) The Board may direct that the prayer of the petition be not granted, or that any of the local municipalities or any part of them or any of them shall be excluded from the operation of the by-law, and that the by-law be amended accordingly.

Powers of
Board to
exclude
municipality
from operation
of by-law.

(6) Where the Board directs that the by-law be amended by excluding the whole or any part of a local municipality from the operation of it, the by-law shall be amended by imposing the rate to provide for the payment of the bonus or of the principal and interest of the debentures issued therefor on the rateable property within that part of the county not so excluded and that only, and the assent to the by-law of those persons qualified to vote on it in that part of the county not so excluded shall be sufficient, and they shall be the only persons entitled to vote on the by-law.

Levy of
rates where
part of
county ex-
cluded from
operation
of by-law.

(7) The by-law as confirmed by the Board or amended by its direction shall, at the option of the railway company, be submitted by the council for the assent of the electors qualified to vote thereon.

Option of
company as
to submis-
sion of
amended
by-law.

(8) If the prayer of the petition is not granted by the Board, the expense of the reference shall be borne by the petitioners, and if the Board directs the by-law to be amended by excluding any part of the county from the operation of the by-law shall be borne by the railway company or by the corporation of the county or in such proportions between them as the Board may direct.

Expenses of
reference—
how borne.

(9) The council may require that before submitting the by-law for the assent of the electors the railway company shall deposit with the treasurer of the municipality a sum sufficient to defray the expense of its submission.

Company
may be re-
quired to
pay ex-
penses of
submitting
by-law.

(10) If the by-law receives the assent of the electors the council shall, within four weeks from the day on which the vote was taken, pass the by-law.

Requirements
as to passing
by-law.

(11) Unless otherwise provided by the by-law, the debentures, the issue of which is provided for by it, shall be issued and disposed of or delivered to the trustees appointed to receive them as hereinafter provided.

Disposal of
debentures.

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Extension of time for commencement or completion of railway.

(12) Where the period within which the construction of the railway or other work is to be commenced or to be completed is provided for in the by-law, the council may by by-law or resolution from time to time extend such period, but no extension shall be for longer than one year at a time.

Limit of two cents not to include bonuses to railways.

(13) A bonus may be granted or shares may be subscribed for under the authority of this section notwithstanding that the yearly municipal taxation may be thereby increased beyond the limit provided for by section 297, if it does not require the levying of an annual rate for all purposes, exclusive of school rates, greater than three cents in the dollar.

Bonuses by sections of township.

(14) By-laws may be passed by the councils of townships for granting a bonus for any of the purposes mentioned in subsection 2 by a section of the township, and in that case the rates imposed by the by-law to provide for the payment of the bonus or the principal and interest of the debentures issued therefor shall be imposed upon the rateable property within such section and that only.

Petition for submission of by-law—what required.

(15) In the case of a by-law to which the next preceding subsection applies, the petition shall be by a majority of the members of the council or at least fifty freeholders of the section qualified to vote on the by-law, and shall define the section by metes and bounds or by lots and concessions, and the assent to the by-law of those persons qualified to vote on it in the section shall be sufficient, and they shall be the only persons entitled to vote on the by-law.

(16) In all other respects the provisions of subsections 1 to 13 shall apply.

Subscribing for stock.

(17) By-laws may, with the assent of the electors qualified to vote on a money by-law, be passed by the councils of all municipalities for subscribing for any number of shares in the capital stock of a railway company.

(18) Clauses (a), (e) and (f) of section 396 shall apply to a by-law passed under the authority of this section.

Delivery of debentures to three trustees.

(19) Where a by-law is passed under the authority of this section for granting a bonus to a railway company, the debentures therefor shall, within six months after the passing of the by-law, be delivered to three trustees, all of whom shall be residents of Ontario, who shall be named, one by the Municipal Board, one by the railway company, and one by the head of the municipality, or if bonuses have been granted by the councils of more municipalities than one by the majority of the heads of the municipalities by which the bonuses have been granted.

Appointment of trustees in case of failure to appoint in first instance.

(20) If the head of the municipality or the heads of the municipalities, as the case may be, do not within one month after notice in writing of the appointment of the railway company's trustee name their trustee, the company may

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name him, and if the Board does not name a trustee within one month after notice in writing to the Board of the appointment of the other two trustees, the company may name the third trustee.

(21) The Board may remove a trustee and may appoint a new trustee in his stead, and if a trustee dies or resigns his trusteeship or goes to reside out of Ontario, or otherwise becomes incapable of acting, his trusteeship shall become vacant and the Board may appoint a trustee in his stead.

Removal
of trustee
by Board.

(22) The trustees shall receive and hold the debentures in trust:—

Trusts on
which debentures
to be held.

(a) Under the direction of the railway company, but subject to the conditions of the by-law as to the time or manner of so doing, to convert the same into money or otherwise dispose of them;

(b) To deposit the debentures or the amount realized from the sale of them in a chartered bank having an office in Ontario, in the name of "The Railway Municipal Trust Account" (*designating the name of the railway*).

(c) To deliver the debentures or pay the proceeds of the sale of them to the company from time to time as it becomes entitled thereto under the conditions of the by-law on the certificate of the chief engineer of the railway company, Form 25.

(23) The certificate shall be attached to the cheque or order drawn by the trustees for such delivery or payment.

Certificate
of engineer
to be attached
to cheque.
Penalty for
wrongfully
granting
certificate.

(24) If the chief engineer wrongfully grants any such certificate he shall incur a penalty of \$500, recoverable by any person who may sue therefor.

(25) The act of any two of the trustees shall be as valid and binding as if they had all joined therein.

Acts of
two trustees
to bind.

(26) The trustees shall be entitled to their reasonable fees and charges from the trust fund. 3-4 Geo. V. c. 43, s. 397.

Fees of
trustees.

398. By-laws may be passed by the councils of all municipalities.

Amateur Athletic and Aquatic Sports.

1. For aiding amateur athletic or aquatic sports.

Sports.

Bands of Music.

2. For aiding the establishment or maintenance of bands of music by any corps of active militia within the country or any other bands of music.

Bands of
music.

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*Bathing Houses.*Public bath-
ing houses.

3. For establishing and maintaining or for granting money to aid in the construction of public bathing houses.

Census.

Local census.

4. For taking a census of the inhabitants.

*Charitable Institutions, etc.*Aid to
charities.

5. For granting aid to any charitable institution or out-of-door relief to the resident poor.

*Crimes—Discovery of.*Rewards for
apprehension
of criminals.

6. For offering and paying rewards for the discovery, apprehension and conviction of persons who have or are believed or suspected to have committed flagrant crimes or to have contravened clause (g) of section 138, or to have been guilty of personation as defined by *The Dominion Election Act* or by *The Ontario Election Act* within the municipality.

R.S.C. c. 6.
Rev. Stat.
c. 6*Drainage.*Construc-
tion of
drains,
sewers,
sewage-
disposal
works, etc.

7. For constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up drains, sewers or water-courses; providing an outlet for a sewer or establishing works or basins for the interception or purification of sewage; making all necessary connections therewith, and acquiring land in or adjacent to the municipality for any of such purposes.

*Driving or Riding on Roads and Bridges.*Regulating
driving on
roads and
bridges.

8. For regulating the driving of horses or cattle and the riding of horses on highways and bridges.

Prohibiting
racing on
highways.

9. For prohibiting racing, immoderate or dangerous driving or riding on highways or bridges.

See section 404, par. 3, as to setting apart streets in cities of 100,000 population for fast driving.

*Electors—Submitting Questions to.*Submission
of questions
of general
policy to
electors.

10. For submitting to the vote of the electors of any municipal question not specifically authorized by law to be submitted.

Exhibitions.

11. For acquiring land within or without the municipality as a place for holding agricultural, horticultural or industrial exhibitions and for erecting and maintaining buildings thereon for that purpose and for the management of the same. Acquiring land for agricultural exhibitions, etc.

12. For leasing for any period not exceeding three years from the making of the lease, any part of the land acquired under paragraph 11, which is not immediately required for the purposes for which it was acquired. Power to lease.

Fat Stock and Other Shows and Exhibitions.

13. For granting or lending money or granting land in aid of any association for the holding of a fat stock or live stock show or exhibition or any exhibition for the promotion or improvement of farming in any of its branches or departments. Aid to fat or live stock shows.

Ferry Boats and Ferries.

14. For making an annual grant towards the maintenance and operation of ferry boats or other appliances used at any ferry over a stream or other water separating a part of the municipality from another part of it, or separating it from another municipality in Ontario. Grants to ferries.

Fire Engines and Appliances.

15. For purchasing or renting for a term of years or otherwise, fire engines, fire apparatus and fire appliances and their appurtenances. Purchasing or renting fire engines, etc.,

Flooding—Prevention of.

16. For the purpose of preventing damage to any highway or bridge or to any property within the municipality by floods arising from the overflowing or damming back of a river, stream or creek flowing through or in the neighbourhood of the municipality, for acquiring land in the municipality or in any adjoining or neighbouring municipality, and for constructing such works as may be deemed necessary for that purpose, and for deepening, widening, straightening or otherwise improving such river, stream or creek in the land so acquired, or removing from it islands, rocks or other natural obstructions to the free flow of the water. Works for prevention of damage by flooding.

Free Libraries.

17. For granting money or land in aid of any public library established under any Act in the municipality or in an adjacent municipality. Public libraries.

Foxes and other Wild Animals—Destruction of.

Bounties for destruction of foxes, etc. 18. For giving bounties not exceeding \$5 per head for the destruction of foxes and other wild animals which kill or destroy poultry.

Harbours, Wharfs, Beacons, etc.

Aid for construction of harbours, wharfs, etc. 19. For granting aid for the construction of harbours, wharfs, docks, slips and beacons on any river, lake or navigable water passing in, through or forming any part of the boundary of the county, on such terms and conditions as to security and otherwise as may be deemed expedient.

Making, etc., of wharfs, docks, etc. 20. For making, improving and maintaining public wharfs, docks and slips, and for preserving shores, bays, harbours, rivers or waters and the banks thereof.

Regulating harbours. 21. For regulating harbours.

Injuring, filling up, etc., of harbours, wharfs. 22. For prohibiting the injuring, fouling, filling up or encumbering of a public wharf, dock, slip, drain, sewer, water or suction pipe, shore, bay, harbour, river or water.

Beacons. 23. For erecting and maintaining beacons.

Erecting docks, elevators. 24. For erecting and renting wharfs, piers and docks in harbours, and floating elevators, derricks, cranes and other machinery for loading, discharging or repairing vessels.

Vessels, etc. 25. For regulating vessels, crafts and rafts arriving in a harbour, and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order, and to pay a harbour master.

Removal of doorsteps, railings, projecting over wharf, dock, etc. 26. For requiring the owner or occupant of the land in connection with which the same exist to remove door-steps, porches, railings or other erections or obstructions projecting into or over any public wharf, dock, slip, shore, bay, harbour, river or water.

Hospitals, etc.

Aiding erection, etc., of hospitals. 27. For granting aid to any incorporated society or any association of individuals for the erection, establishment or equipment of public hospitals for the treatment of persons suffering from disease or from injuries.

Indigent Persons—Aid of.

Aiding indigent persons. 28. For aiding in maintaining any indigent inhabitant of, or person found in, the municipality, at a house of refuge, hospital or institution for the insane, deaf and dumb or blind, or other public institution of a like character.

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- (a) Where money is advanced by way of charity or relief to or expended for the benefit of a person who, although in destitute circumstances, is the owner of or interested in land the retention of which is necessary for a dwelling for him, the corporation may take a conveyance of or security on such land for the amount advanced or expended, and on the death of such person, or the surrender of the land by him to the corporation, the corporation may sell or dispose of the land and apply the proceeds in payment of the amount so advanced or expended, with interest thereon at the rate of six per cent. per annum, and the costs of the sale and the residue of such proceeds, if any, shall be paid to the executors, administrators or assigns of such person on demand.

Power to take security for advances made to persons by way of charity.

Municipal Officers.

29. For appointing such pound-keepers, road commissioners, pathmasters, fence-viewers, overseers of highways, road surveyors, inspectors of sheep worried or killed by dogs, and other officers in addition to those specially mentioned in this Act and such servants as may be deemed necessary for the purposes of the corporation, or for carrying into effect the provisions of any Act of this Legislature or by-law of the council.

Appointing certain officers.

30. For fixing their remuneration and prescribing their duties, and the security to be given for the performance of them.

Fixing fees, duties and security of.

Ontario Municipal Union.

31. For the corporation becoming a member of any union of Ontario municipalities for furthering the interests of municipalities and paying the fees for such membership and making contributions for the expenses of the union, and paying the expenses of delegates to any meeting of it or upon its business.

Membership in union of municipalities.

Public Parks and Drives.

32. For acquiring land for and establishing and laying out public parks, squares, avenues, boulevards and drives in the municipality or in any adjoining local municipality, and where there is no Board of Park Management for exercising all or any of the powers which are by *The Public Parks Act* conferred on Boards of Park Management.

Acquiring land for parks, etc.

Rev. Stat. c. 203.

- (a) A corporation which expropriates land in another municipality, under the powers conferred by this paragraph, shall put the land in an efficient state to be used, and open the same to the general pub-

Where land expropriated is in an adjoining municipality.

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lic, for the purpose for which it was acquired, within a reasonable time after such expropriation and shall maintain and keep the same in an efficient state of repair and shall provide police protection therefor.

Accepting land dedicated. 33. For accepting and taking charge of land, within or without the municipality, dedicated as a public park for the use of the inhabitants of the municipality.

Rifle Associations—Militia.

Aid to rifle associations and militia. 34. For aiding any regularly organized rifle association or any association or corporation having for its object or one of its objects the promotion of military art, science or literature.

Remuneration 35. For adding to the sum paid, during the period of annual or other authorized drill or when on active service, to any enlisted member of any corps of Active Militia organized within the municipality.

Equipment. 36. For providing military outfit or equipment for the members of such corps.

Sidewalks, etc.—Vehicles on.

Prohibiting vehicles on sidewalks, etc. 37. For prohibiting carriages, waggons, bicycles, sleighs and other vehicles and conveyances of every description, and whatever the motive power, or any particular kind or class of such vehicles or conveyances being upon, or being used, drawn, hauled or propelled along or upon any sidewalk, path-way or footpath used by or set apart for the use of pedestrians, and forming part of any highway or bridge, boulevard or other means of public communication, or being in or upon any highway, boulevard, park, park-plot, garden or other place set apart for ornament or embellishment or for public recreation.

Victorian Order of Nurses.

Aid to Victorian Order of Nurses. 38. For granting aid to the Victorian Order of Nurses.

Water for Fire Purposes.

Contracts for supply of water. 39. For contracting for a supply of water within the municipality for fire purposes and other public uses, from hydrants or otherwise as may be deemed advisable; and for renting hydrants for any number of years not, in the first instance, exceeding ten; and for renewing the contract from time to time for periods not exceeding ten years, as the council may deem proper; or for purchasing or erecting hydrants necessary for any of such purposes.

Watering Streets.

40. For contracting with a street railway company for Contracts with street railway companies for street watering. watering any of the highways for any number of years, not exceeding five, and for renewing such contract from time to time for a period not exceeding five years. 3-4 Geo. V. c. 43. s. 398.

399. By-laws may be passed by the councils of local municipalities.

Bathing in Public Waters.

1. For prohibiting or regulating the bathing or washing of Bathing. the person in any public water in or near the municipality.

Charivaries.

2. For prohibiting charivaries and other like disturbances Charivaries. of the peace.

Closet Accommodation for Workmen.

3. For requiring the owners, contractors or master workmen engaged in the erection or construction of buildings or public works to provide, for the use of the workmen employed in such erection or construction, closet accommodation, to be approved of by the medical health officer, in connection with them. Conveniences to be provided by builders.

Cows and other Animals—Keeping of.

4. For regulating the keeping of cows, goats, swine and other animals. Keeping of cows and other animals.

5. For prohibiting the keeping of cows, goats, swine or other animals, except horses or mules, within the municipality or within defined areas of it.

Contagious Diseases.

6. For providing blank forms for recording and reporting cases of contagious or infectious disease; for placarding houses wherein such cases exist, and for taking such measures as may be deemed necessary for preventing the spread of such diseases. Contagious diseases.

Cruelty to Animals, Etc.

7. For preventing cruelty to animals and the destruction of birds. Cruelty to animals.

Disorderly Houses.

8. For suppressing disorderly houses and houses of ill-fame. Disorderly houses, etc.

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Disqualification of Electors not paying Taxes.

Disqualify-
ing electors
in arrear for
taxes.

9. For disqualifying from voting an elector who has not on or before the 14th day of December next preceding the election paid all municipal taxes due by him.

Drainage of Cellars, Privy Vaults, Etc.

Construction
of cellars,
drains, etc.

10. For regulating the construction of cellars, sinks, cesspools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them.

Dry earth
closets.

11. For requiring the use within the municipality or a defined area of it of dry earth closets.

Expenses of
cleaning
closets, etc.

12. For providing that the cleaning and disposing of the contents of cesspools, water closets, earth closets, privies and privy vaults shall be done exclusively by the corporation.

(a) For such purpose the corporation, its officers and servants shall have all the powers of the local board of health and its officers and servants, and such expense shall be recoverable in the manner provided by section 500.

Filling up,
draining,
etc.,
grounds,
yards, etc.

13. For requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yards and vacant lots and the altering, relaying or repairing of private drains.

Regulations
for sewer-
age, etc.

14. For making any other regulations for sewerage or drainage that may be deemed necessary for sanitary purposes.

Egress from Buildings.

Doors of
public build-
ings.
Rev. Stat.
cc. 235, 229.

15. For regulating, subject to the provisions of *The Egress from Public Buildings Act* and *The Ontario Factories Act* :—

(a) The size and number of doors, aisles, halls and stairs in and other means of egress from hospitals, schools, colleges, churches, theatres, halls, or other buildings used as places of worship, or of public resort, or amusement, or for public meetings, and street gates leading to them;

(b) The construction and width of stairways in such buildings, and in factories, warehouses, hotels, boarding and lodging houses;

(c) The materials of which and the manner in which stairs and stair-railings shall be constructed, and the strength of walls, beams and joists and their supports in all such buildings; and

(d) For requiring the production of the plans of the buildings mentioned in this paragraph now erected or which it is proposed to erect, and for prohibit-

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ing the use or erection of them until the provisions of the by-law are complied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.

16. For prohibiting and preventing the obstruction by persons or things of the halls, aisles, passage-ways, alleys or approaches in or leading to any such building during the occupation of it by a public assemblage.

Obstruction
of halls,
aisles, etc.

(a) While any building mentioned in clause (a) of paragraph 15 in a city or town is occupied by a public assemblage, the chief constable or any constable of the city or town may enter it to see that the by-law is not being violated, and may require the removal of any obstruction or of any person standing, sitting, or otherwise occupying any hall, aisle, passage-way, alley or approach, except for passing to and fro.

Powers of
police officers
as to seeing that
by-laws
enforced

Electricity—Transmission of.

17. Subject to *The Municipal Franchises Act* for authorizing any person supplying electricity for light, heat and power, to lay down pipes or conduits for enclosing wires for the transmission of electricity under the highways or public squares, or to carry wires for the transmission of electricity or to erect telegraph, and telephone poles and wires across or along any highway or public square, on such terms and conditions as the council may deem expedient.

Laying of
pipes or
conduits
on streets.
Rev. Stat.
c. 197.

Transmission
of
electricity.

(a) A by-law shall not be passed under this paragraph in violation of any agreement of the corporation.

Explosives—Keeping, Manufacturing and Storing of.

18. For regulating the keeping, storing and transporting of

Regulating,
storing and
transporta-
tion of ex-
plosives.

(a) Dynamite, dualin, nitro-glycerine or gunpowder;

(b) Petroleum, gasoline or naptha; and

(c) Other dangerous or combustible, inflammable or explosive substances;

19. For regulating and providing for the support by fees of magazines belonging to private persons for the storage of the substances mentioned in clause (a) of paragraph 18, and for requiring them to be stored in such magazines.

Fees for
support of
magazines.

20. For erecting and maintaining within or without the limits of the municipality magazines for the storage of the substances mentioned in clause (a) of paragraph 18, and for acquiring the land necessary for that purpose, and for requiring such substances to be stored in such magazines.

Erecting
and main-
taining
magazines.

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Limiting
quantity to
be kept.

21. For limiting the quantity of the substances mentioned in clause (a) of paragraph 18, which may be kept in any place other than such a magazine, and for regulating the manner in which the same are to be kept or stored.

Prohibiting
manufac-
ture of
explosives.

22. For prohibiting or regulating the establishment within the municipality of factories or other places for the manufacture or storage of any of the substances mentioned in clause (a) of paragraph 18.

Submission
of plans of
premises.

23. For requiring the submission of plans of the premises including the buildings upon or in which it is proposed that such manufacture or storage shall take place, and the approval of them by the council before the manufacture or storing is commenced.

Height and
description
of fences
around
buildings.

24. For requiring such buildings to be surrounded by walls or fences and for regulating the height and description of such walls or fences and their distance from such buildings, and also the distance from any other building at which such manufacture or storage may be carried on.

Regulating
business of
manufac-
turing ex-
plosives.

25. For regulating the carrying on of the business of manufacturing or storing such substances, whether the business has been heretofore or shall be hereafter established, and prescribing the precautions to be taken for the prevention of fires and accidents from the combustion or explosion of such substances.

Licenses
for carry-
ing on
business.

26. For granting licenses for the carrying on of the business of manufacturing such substances or for storing them in quantities of more than twenty-five pounds, and prescribing the time, not exceeding five years, during which the licenses shall remain in force.

(a) The license fee shall not exceed \$25 a month for every month in which such business shall be carried on.

Prohibiting,
etc., storing
of gasoline,
etc.

27. For prohibiting or regulating the keeping or storing of gasoline or benzine, and prescribing the materials of which the vessels containing it shall be composed, and the classes of buildings in which it may be stored or kept for sale, and for making regulations for the prevention of fires and accidents from the combustion or explosion of such substances.

Fences.

Height and
kind of
fence.

28. For prescribing the height and description of lawful fences.

Along
highways.

29. For prescribing the height and description of and the manner of maintaining, keeping up and laying down fences along highways or parts thereof; and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down any such fence.

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30. For determining how the cost of division fences shall be apportioned; and for providing that any amount so apportioned shall be recoverable under *The Ontario Summary Convictions Act*;

Division
fences, ap-
portionment
of cost.
Rev. Stat. c. 90.

(a) Until a by-law is passed, *The Line Fences Act* shall apply.

Rev. Stat.
c. 259.

31. For requiring proper and sufficient protection against injury to persons or animals by fences constructed wholly or partly of barbed wire or any other barbed material to be provided by the owner of the land; and in towns and cities for prohibiting the erection along the highways of fences made wholly or partly of barbed wire or any other barbed material.

Barbed wire
fences.

32. For requiring the owners of land to erect and maintain a water gate where a fence crosses an open drain or watercourse.

Water
gates.

Fire—Prevention of Accidents by.

33. For securing against accident by fire the inmates and employees and others in factories, hotels, boarding-houses, lodging-houses, warehouses, theatres, music halls, opera houses and other buildings used as places of public resort or amusement.

Providing
against
accidents by
fire.

Fire Escapes.

34. Subject to the provisions of any other Act requiring fire escapes, for compelling the owners and occupants of buildings more than two storeys in height, except private dwellings, to provide proper fire escapes therefor in such places of such pattern and mode of construction as may be deemed proper; and for prohibiting the occupation of any such building unless or until such fire escapes are provided.

Compelling
use of fire
escapes.

Fires in Open Air.

35. For prescribing the times during which fires may be set in the open air and the precautions to be observed by persons setting out fires.

Prescribing
times for
setting fire
and pre-
cautions.

Firearms and Fireworks.

36. For prohibiting or regulating the discharge of guns or other firearms; and the firing and setting off of fireballs, squibs, crackers or fireworks.

Discharge
of firearms,
fireworks,
etc.

Food.

37. For regulating the delivery and exposure for sale upon a highway or in a market or public place of meat, poultry, game, flesh, fish or fruit, or the carcass of any animal.

Regulating
the delivery
or exposure
for sale of
meat, etc.

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Inspection
of milk and
provisions.

38. For appointing inspectors, and for providing for the inspection of meat, poultry, fish and natural products offered for sale for human food, whether on the streets or in public places, or in shops.

Seizing
tainted
food.

39. For authorizing the seizing and destroying of tainted and unwholesome articles of food.

Gambling Houses, etc.

Gaming.

40. For suppressing gambling houses, and for seizing and destroying faro-bank, rouge et noir, or roulette tables, and other devices for gambling found in them.

Gas Works, Tanneries, Distilleries, etc.

Gas works,
distilleries,
etc.

41. For prohibiting or regulating the erection or continuance of gas works, tanneries, or distilleries or other manufactories or trades which in the opinion of the council may prove to be or may cause nuisances.

Graves—Protection of.

Protecting
graves.

42. For prohibiting the violation of cemeteries, graves, tombs, tombstones or vaults where the dead are interred.

Hoists, Scaffolds, etc.

Construction
of hoists,
scaffolding,
etc.

43. For regulating and inspecting the construction and erection of hoists, scaffoldings and other apparatus and appliances used in erecting, repairing, altering or improving buildings, chimneys or other structures; and for making regulations for the protection and safety of workmen and others employed thereon; and for appointing inspectors of scaffolding.

(As to appointment of inspectors under The Buildings Trades Protection Act and as to additional scaffold regulations, see Rev. Stat. c. 228, ss. 3 and 7.)

Manufactures and Trades.

Noxious
manufac-
tures and
trades.

44. For regulating manufactures and trades which in the opinion of the council may prove to be or may cause nuisances.

Noises.

Ringing of
bells, etc.

45. For prohibiting or regulating the ringing of bells, the blowing of horns, shouting and unusual noises or noises calculated to disturb the inhabitants.

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Nuisances.

46. For prohibiting and abating public nuisances.

Nuisances.

47. For prohibiting the hauling of dead horses, offal, night soil or any other offensive matter or thing along any highway during the hours of daylight.

Hauling
dead horses,
etc., through
the streets in
daylight.

Placards, etc.—Indecent.

48. For prohibiting the posting or exhibition of placards, play bills, posters, writings or pictures or the writing of words, or the making of pictures or drawings, which are indecent or may tend to corrupt or demoralize, on any wall or fence or elsewhere on a highway or in a public place.

Indecent
placards, etc.

Plays—Immoral or Indecent.

49. For prohibiting the production or giving of an immoral or indecent play or performance in any theatre, hall or other public place of amusement or entertainment, and for authorizing the chief constable, the deputy chief constable or any inspector of police, or any officer or person specially detailed for that purpose, to enter any theatre, hall or other place of public amusement or entertainment, and if at his request such play or performance is not forthwith stopped, to apprehend the performers without warrant, and to take them as soon as practicable before a Police Magistrate or a Justice of the Peace.

Immoral
plays in
theatres

Poles and Wires.

50. Subject to *The Municipal Franchises Act* for regulating the erection and maintenance of electric light, power, telegraph and telephone poles and wires and poles and wires for the transmission of electricity upon the highways or elsewhere within the municipality.

Electric
light, etc.,
poles and
wires.
Rev. Stat.
c. 197.

51. Subject to *The Power Commission Act* for constructing or laying down pipes or conduits for enclosing wires for the transmission of electricity under, or for erecting towers or poles for the support of wires for such purpose across or along any highway or public place, and for entering into agreements with electric light or power, telegraph or telephone companies for the use by them of such pipes, conduits or poles, for such consideration and on such terms and conditions as may be agreed upon.

By-laws for
laying pipes
or conduits
for electric
wires.

Rev. Stat c 39

Pounds, etc.

52. For providing sufficient yards and enclosures for the safe keeping of such animals as it may be the duty of the pound-keeper to impound.

Providing
pounds.

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Animals
running at
large.

53. For prohibiting or regulating the running at large or trespassing of animals, other than dogs, and for providing for impounding them and for causing them to be sold, if they are not claimed within a reasonable time, or if the damages, fines and expenses are not paid according to law.

Appraising
the
damages.

54. For appraising the damages to be paid by the owners of animals impounded for trespassing contrary to law or the by-laws of the municipality.

Compensa-
tion for
impounding
animals.

55. For determining the compensation to be allowed for services rendered in carrying out the provisions of any Act with respect to animals impounded or distrained and detained in the possession of the distrainor.

Sewers—Extension of.

Extension of
sewers into
adjoining
municipi-
pality.

56. Where a local municipality is so situate that it is necessary, in order to procure an outlet for a sewer or to connect it with a sewage farm, to extend it into or through an adjacent municipality, for so extending it, or for extending and connecting it with any existing sewer of such adjacent municipality, upon such terms and conditions as may be agreed upon, or in case of failure to agree, as may be determined by arbitration.

Arbitrators
to determine
conditions
on which
connections
may be
made.

(a) Where the council of the adjacent municipality objects to allow such extension or connection, the arbitrators shall determine not only the terms and conditions upon which the extension or connection is to be made, but also the location of the sewage farm, filtering plant or artificial means of sewage disposal which is contemplated, and whether the extension or connection should be allowed to be made.

Rev. Stat.
c. 260.

(b) Nothing in this paragraph shall authorize the making of an open drain or sewer, or affect the provisions of *The Ditches and Watercourses Act*, or limit any of the powers conferred on townships by that Act.

Signs, Etc.

Posters.

57. For prohibiting or regulating the erection of signs or other advertising devices and the posting of notices on buildings or vacant lots.

Pulling
down of
signs and
notices.

58. For prohibiting the pulling down or defacing of signs or other advertising devices and notices lawfully affixed.

Slaughter Houses.

Establish-
ing slaugh-
ter houses.

59. For establishing and maintaining public slaughter houses.

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60. For prohibiting or regulating and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designated in the by-law.

Prohibiting and regulating.

(a) In towns, villages and townships this clause shall not apply to the slaughter of animals for the use of the person killing them or of his family.

Snow and Ice—Removal of.

61. For requiring the occupants of buildings adjoining a highway in the municipality or in any defined area of it to clear away and remove the snow and ice from the roofs of such buildings and from the sidewalks adjoining their premises, and for regulating the times when and the manner in which the same shall be done.

Clearing away snow and ice from roofs and sidewalks.

62. For clearing away and removing snow and ice from the roofs of unoccupied buildings adjoining a highway and from the sidewalks adjoining the premises and adjoining vacant land in the municipality or in any defined area of it at the expense of the owner, and for collecting or recovering the expenses incurred in so doing in the manner provided by section 500.

Case of unoccupied buildings and vacant land.

Sparring Exhibitions, etc.

63. For prohibiting sparring exhibitions and boxing matches, where an admission fee is charged, without the written permission of the chief constable in a city or town, or of the reeve in townships and villages.

Sparring exhibitions and boxing matches.

Steam Transmission.

64. For authorizing any person supplying steam for heat or power to lay down pipes or conduits for transmitting steam under the highways or public squares, on such terms and conditions as the council may deem expedient.

Transmitting steam under highways.

(a) A by-law shall not be passed under the authority of this paragraph in violation of any agreement of the corporation.

Vagrants, etc.

65. For restraining and punishing vagrants, mendicants, and persons found drunk and disorderly in any highway or public place.

Vagrants.

Vice—Preventing.

66. For preventing vice, drunkenness, profane swearing, indecent, obscene, blasphemous or grossly insulting language, and other immorality and indecency, and the indecent public exposure of the person.

Vice, drunkenness, etc.

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*Watercourses and Drains—Obstruction of.*Obstruction
of drains.

67. For prohibiting the obstruction of any drain or watercourse, and for permitting and regulating the size and mode of construction of culverts and bridges which cross any drain or watercourse situate on a public highway.

*Water Closets, Privy Vaults, etc.—Filling up.*Closing and
filling up
cesspools,
etc.

68. For requiring owners, lessees and occupants of land in the municipality or any defined area of it to close or fill up water closets, privies, privy vaults, wells or cess-pools, the continuance of which may, in the opinion of the council or the medical health office, be dangerous to health.

*Weeds.*Prevention
of growth
of thistles
and weeds.
Appointment
of in-
spector to
enforce
by-law.

69. For prohibiting the growth of Canada thistles and other weeds detrimental to husbandry and for compelling the destruction thereof; for appointing an inspector to enforce the by-law, and for prescribing his duties and fixing his remuneration.

*Wells and Water.*Cleaning
and pro-
hibiting
fouling of
wells, etc.

70. For establishing, protecting, regulating and cleaning public and private wells, reservoirs and other public and private conveniences for the supply of water; for prohibiting the fouling of them, or the wasting of the water, and for procuring an analysis of such water, and providing for the payment of the expense thereof, and for making reasonable charges for the use of public water.

Filling up
wells.

71. For the closing or filling up of public or private wells.

Compelling
use of
water
supply.

72. For compelling the use within the municipality or any defined area therein, for drinking and domestic purposes, of water supplied from the water-works of the municipality or of a water-works company; and for prohibiting the use within the municipality or such area of spring or well water for such purposes. 3-4 Geo. V. c. 43, s. 399.

400. By-laws may be passed by the councils of urban municipalities.

*Bathing and Boat-Houses—Inspection of.*Inspection
of bathing
and boat
houses.

1. For inspecting public bathing-houses and boat-houses or premises wholly or partly used for boat-house purposes; and for prohibiting their use for illegal or immoral purposes.

Begging.

2. For prohibiting common begging or persons from importuning, in the highways or public places, others for help or for aid in money, and deformed, malformed or diseased persons from exposing themselves, or being exposed there, to excite sympathy or for the purpose of obtaining help or assistance.

Prevention
of begging,
etc.

Borrowing Money for Certain Purposes Without Assent of Electors.

3. Where the corporation of an urban municipality has heretofore constructed, purchased or acquired, or hereafter constructs, purchases or acquires gas, electric light, power or water works or works for the development of a water power for generating, or works for producing, transmitting or distributing electrical power or energy, or sewerage works or works for the interception, purification or disposal of sewage, at the expense of the corporation at large, for borrowing such further sums as may be necessary to extend or improve such works.

Borrowing
money for
extension
of water,
gas, electric
light works,
etc.

(a) The by-law shall not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Municipal Board.

When assent
of electors
not required.

(b) Such approval may be given if it is shown to the satisfaction of the Board that the extension is necessary, and that a sufficient additional revenue will be derived therefrom to meet the annual payments in respect of such debt and the interest thereon, or in the case of the extension or improvement of sewerage works or works for the interception, purification or disposal of sewage, that such extension or improvement is approved of by the Provincial Board of Health.

Approval
of Board,
conditions
precedent
to.

(c) This paragraph shall not apply to works required by the Provincial Board of Health to be established, improved, extended, enlarged, altered or renewed or replaced.

Buildings—Strength of Walls, Beams, etc.

4. For regulating the size and strength of brick, stone, cement and concrete walls, and of the beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees.

Size and
strength of
walls, etc.,
and produc-
tion of
plans.

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Cab Stands and Booths.

Cab stands.

5. For authorizing and assigning stands on the highways and in public places for vehicles kept for hire; and for authorizing the erection and maintenance of covered stands or booths on the highways and in public places, for the protection or shelter of the drivers of such vehicles.

(a) No such covered stand or booth shall be placed upon the sidewalk without the consent of the owner and occupant of the adjoining land.

Cellars—Plans of.

Ascertaining levels of cellars, etc.

6. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be deemed necessary for ascertaining such levels.

Compelling the furnishing of ground or block plan of buildings to be erected.

7. For requiring to be deposited with an officer named in the by-law, before the erection of a building is commenced, a ground or block plan of the building, with the levels of the cellars and basements, with reference to a line fixed by by-law.

Children Riding behind Vehicles.

Prohibiting children from riding behind waggons, etc.

8. For prohibiting children from riding on the platforms of cars, or riding behind or getting on waggons, sleighs or other vehicles while in motion, and for preventing accidents arising from such causes.

Coasting and Tobogganing.

Coasting and tobogganing.

9. For prohibiting or regulating coasting or tobogganing on the highways.

Drainage Purposes—Acquiring Land in Another Municipality for.

Acquiring land in another municipality for drainage purposes.

10. For acquiring, with the consent of the council thereof, land in any other municipality required for preventing such urban municipality or any part of it from being flooded by surface or other water flowing from such other municipality or for an outlet for such water; and for constructing, maintaining and improving drains, sewers and watercourses in the land so acquired.

Drill Sheds and Armouries.

Site for drill shed or armoury.

11. For acquiring land in the municipality for a drill shed or armoury for any militia or volunteer corps having its headquarters in the municipality.

Elevators, Hoists, etc.

12. Subject to *The Ontario Factories Act* and any other Act relating to cranes, elevators and hoists, for regulating the construction of and for inspecting cranes, hoists and elevators, and for regulating the manner in which elevators and hoists which are to be operated automatically or otherwise in buildings shall be constructed and operated, and for licensing elevators and hoists used by the public or by employees.

Provision of
hoists and
elevators.
Rev. Stat.
c. 229.

Fire Engines, etc.—Right of Way on Highways.

13. For providing that the reels, engines and vehicles of the fire department shall have the right of way on the streets and highways while proceeding to a fire or answering a fire alarm call.

Right of
way on
streets for
fire reels.

Firemen, etc.

14. For appointing fire wardens, fire engineers and firemen, and for promoting, establishing and regulating fire-hook-and-ladder, and property saving companies.

Establish-
ing fire
companies
etc.

Firemen, etc.—Medals, Rewards and Gratuities to.

15. For providing medals or rewards for persons who distinguish themselves at fires; and for granting gratuities to the members of the fire brigade who have become incapacitated for service on account of injuries or ill-health caused by accident or exposure at fires, or from old age or inability to perform their duties, and for granting pecuniary aid or other assistance to the widows and children of persons killed by accident while in the discharge of their duties at fires, or who die from injuries received or from illness contracted while in the service of the corporation as firemen.

Rewards to
firemen and
persons dis-
tinguishing
themselves
at fires.

Fires—Prevention of.

16. For regulating the construction, alteration or repairs of buildings.

Erection of
buildings,
etc.

17. For prohibiting the erection of wooden buildings or wooden additions, and of wooden fences, or the removal of any such building or fence from one place to another in defined areas of the municipality.

Wooden
buildings.

18. For prohibiting the erection or placing within defined areas of buildings or additions to them with main walls other than of brick, cement, concrete, iron or stone, and roofing of other than incombustible material.

Kind of
walls.

19. For regulating the repairing or alteration of roofs or the external walls of existing buildings within such areas, so that the buildings may be as nearly as practicable fire-proof.

Repairs to
existing
buildings.

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Pulling
down, etc.,
buildings
illegally
erected.

20. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law.

Pulling
down
buildings
in ruinous
state.

21. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any building, fence, scaffolding or erection, which, by reason of its ruinous or dilapidated state, faulty construction or otherwise is in an unsafe condition as regards danger from fire or risk of accident.

Fire in
stables, etc.

22. For prohibiting or regulating the use of fire or lights in factories, stables, cabinet makers' shops, carpenters' shops, paint shops, dye and cleaning works, and places where their use may cause or promote fire.

Dangerous
manufac-
tories.

23. For prohibiting or regulating the carrying on of manufactures or trades which may be deemed dangerous in causing or spreading fire.

Inspecting
and regulat-
ing electric
wires, etc.

24. For regulating and inspecting wires and other apparatus placed or used for the transmission of electricity for any purpose in or along any highway or on or in any building, and for requiring any such wire or other apparatus which is deemed unsafe or dangerous to be removed or repaired at the expense of the person to whom it belongs or who is using it.

Construc-
tion of
chimneys,
fireplaces,
etc.

25. For regulating the construction of chimneys, flues, fire-places, stoves, ovens, boilers or other apparatus or things which may be dangerous in causing or promoting fire, and for removing at the expense of the owner any of them constructed in contravention of the by-law.

Dimensions
and clean-
ing of
chimneys.

26. For regulating the construction as to dimensions and otherwise, and for enforcing the proper cleaning of chimneys.

Removal
of ashes.

27. For regulating the mode of removal and safe keeping of ashes.

Erection of
party walls.

28. For regulating and enforcing the erection of party walls.

Scuttles,
ladders, etc.,
to houses.

29. For requiring the owners and occupants of buildings to have scuttles in the roof, with approaches, or stairs or ladders leading to the roof.

Guarding
buildings
against fire.

30. For requiring buildings and yards to be put in a safe condition to guard against fire or other dangerous risk or accident.

Fire buckets.

31. For requiring each inhabitant to provide as many fire buckets, in such manner and at such time as may be prescribed; and for regulating the inspection of them and their use at fires.

Inspection
of premises.

32. For authorizing appointed officers to enter at all reasonable times upon any property in order to ascertain whe-

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ther the provisions of the by-law are obeyed, and to enforce or carry into effect the same.

33. For suppressing fires, and for pulling down or demolishing buildings or other erections when deemed necessary to prevent the spread of fire. Preventing spreading of fire.

34. For regulating the conduct and enforcing the assistance of persons present, and for the preservation of property at fires. Enforcing assistance at fires.

35. For making such other regulations for preventing fires and the spread of fires as the council may deem necessary. Regulations.

Harbours, Wharfs, Waters, etc.—Removal of Obstructions from.

36. For requiring and regulating the removal from any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water, of all sunken, grounded or wrecked vessels, barges, crafts, cribs, rafts, logs or other obstructions or incumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same. Removal of sunken vessels, etc., from harbours, etc.

Milk and Bread Tickets, etc.

37. For regulating the use of tickets, checks or coupons by vendors of or dealers in milk, bread or other articles of food. Milk and bread tickets.

Naming and Surveying Streets.

38. To provide for surveying, settling and marking the boundary lines of highways and giving names to them or changing their names, and for affixing the names at the corners thereof on public or private property: Marking the boundaries of and naming streets, etc.

(a) A by-law for changing the name of a highway shall not have any force or effect unless passed by a vote of at least three-fourths of all the members of the council, or until a copy of it certified under the hand of the clerk and the seal of the corporation has been registered in the registry office of the proper registry division. Proceedings for changing names of streets.

(b) A by-law for changing the name of a highway in a city or town shall state the reason for the change, and shall not be finally passed until it has been approved by a judge of the County or District Court of the county or district in which the municipality is situate.

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- (c) The judge, on the application of the council, shall appoint a day, hour and place for considering the by-law, and for hearing those advocating and opposing the change.
- (d) A copy of the by-law and of the appointment shall be served on the registrar of the registry division in which the municipality is situate at least two weeks before the time appointed, and a notice of the application in such form as the judge may approve shall be published once in the *Ontario Gazette* at least two weeks before the time so appointed, and at least once a week for four successive weeks in such other newspaper or newspapers as the Judge may direct.
- (e) If the judge approves of the change he shall so certify, and his certificate shall be registered with the by-law, and the change shall take effect from the date of the registration.

*Numbering Houses and Lots.*Numbering
houses, etc.

39. For numbering the buildings and lots along the highways and for affixing numbers to the buildings, and for charging the owner or occupant with the expense incident to the numbering of his building or lot.

- (a) Such expense may be collected in the same manner as taxes, and if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.

*Numbers and Record of Streets.*Record of
streets,
numbers,
etc.

40. For keeping (and every such council shall keep) a record of the highways and of the numbers of the buildings and lots, and for entering therein (and every such council is hereby required to enter therein) a division of the streets with boundaries and distances for public inspection.

*Pits and Quarries.*Pits and
quarries.

41. For prohibiting the making of pits and quarries in the municipality or regulating the location of them.

- (a) The making or locating of a pit or quarry in contravention of the by-law in addition to any other remedy may be restrained by action at the instance of the corporation.

*Runners.*Importuning
travellers.

42. For prohibiting persons from importuning on a highway or in a public place others to travel in or employ any

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vessel or vehicle, or to go to any tavern or boarding house, or for regulating persons so employed.

Sewer Rents.

43. For charging all persons who own or occupy land drained, or which by by-law of the council is required to be drained, into a common sewer a reasonable rent for the use of it; for regulating the time and manner in which the rent is to be paid; for providing for the payment of a commutation of such rent or charging a gross sum in lieu of rent and for the payment of such commutation or gross sum either in cash or by instalments with interest. Sewer rents.

- (a) This paragraph shall not apply to a sewer constructed as a local improvement.

Sidewalks—Horses and Cattle upon.

44. For prohibiting the leading, riding or driving of horses or cattle upon sidewalks or in other places not proper therefor. Driving, etc., upon sidewalks.

Smoke Prevention.

45. For requiring the owner, lessee, tenant, agent, manager or occupant of any premises in, or of a steam boiler in connection with which a fire is burning and every person who operates, uses or causes or permits to be used any furnace or fire, to prevent the emission to the atmosphere from such fire of opaque or dense smoke for a period of more than six minutes in any one hour, or at any other point than the opening to the atmosphere of the flue, stack or chimney. Smoke prevention

- (a) This paragraph shall not apply to a furnace or fire used in connection with the reduction, refining, or smelting of ores or minerals or the manufacture of cement, or to dwelling houses, except apartment houses;
- (b) No person shall incur a penalty for an infraction of the by-law committed before he has had 90 days' written notice from the corporation of the existence of it.

Spitting on Sidewalks, etc.

46. For prohibiting spitting on sidewalks and pavements, and in the passages and stairways of and entrances to public buildings, and in buildings, halls, rooms and places to which the public resort, in street cars and public conveyances, and in such other public places as may be designated in the by-law. Spitting on sidewalks, public buildings, etc.

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*Stables, etc.*Location of
stables,
garages, etc.

47. For regulating the location, erection and use of stables, garages, barns, outhouses and manure pits.

*Trading Stamps, Coupons, etc.*Trading
stamps and
coupons.

48. For prohibiting the giving, selling or distributing of or the dealing with trading stamps, coupons or other similar devices by any person engaged in trade or business or the receiving of them.

Merchants'
premium
coupons.

(a) The by-law shall not apply to a merchant or manufacturer who places in or upon packages of goods, or delivers to purchasers of goods sold or manufactured by him at the time of the purchase, tickets or coupons, which state upon their face the place of delivery thereof, and the cash or merchantable value of them, and are redeemable at any time, but only by the merchant or manufacturer giving them and at the place where such goods were sold or purchased.

*Traffic on Highways, etc., Driving of Cattle, etc.*Regulating
traffic on
streets and
width of
wheels.

49. For regulating traffic in the highways and the width of the tires and wheels of all vehicles used for the conveyance of articles of burden, goods, wares or merchandise; and for prohibiting heavy traffic and the use of traction engines and the driving of cattle, sheep, pigs and other animals in certain highways and public places named in the by-law and for prohibiting traffic in any but one direction in highways which in the opinion of the council are too narrow for the passing of one vehicle by another.

*Watchmen.*Appointment
of night-
watchmen.Special rate
for ex-
penses.

50. For employing and paying one or more watchmen to patrol at night, or between certain hours of the night, any highway or part of a highway to be defined by the by-law and to guard and protect property; and for levying and collecting in the same manner and at the same time as taxes are levied and collected, by special rate, according to its assessed value, upon the land abutting on such highway or part of a highway within the limits defined by the by-law, except vacant lots, the expenses of or incidental to the employment of such night-watchmen.

Petition by
ratepayers.

(a) The by-law shall not be passed except upon petition of two-thirds of the assessed owners and tenants of the land liable to be charged with the expenses, representing at least two-thirds of the assessed value of such land.

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- (b) A petition shall not be acted on unless the signatures to it, and that the contents of it were made known to each person before signature, are proved by affidavit. Proof of signatures.
- (c) As between the landlord and tenant, in the absence of any express agreement to the contrary, the tenant shall be liable for the expenses for the period of his occupation. Liability of tenant.
- (d) When land is occupied by a tenant the owner shall not be entitled to petition. When owner not to petition.

Vacant Lots—Enclosure of.

51. For requiring vacant lots to be properly enclosed. Vacant lots.
 3-4 Geo. V. c. 43, s. 400.

Markets, etc.

401. Subject to the next succeeding section by-laws may be passed by the councils of urban municipalities. Market by-laws.

1. For establishing, maintaining and regulating markets. Establishing markets.

2. For prohibiting or regulating the sale by retail in the highways or on vacant lots adjacent to them of any meat, vegetables, grain, hay, fruit, beverages, smallwares and other articles, and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise. Regulating vending in streets, etc.

3. For regulating the place and manner of selling and weighing grain, meat, vegetables, fish, hay, straw and other fodder, wood, lumber, shingles, farm produce, smallwares and all other articles exposed for sale, and prescribing the fees to be paid therefor. Sale of grain meat, farm produce, smallware, etc.

4. For prohibiting criers and vendors of smallwares from practising their calling in the market place, or on the highways, or on vacant lots adjacent to the market place or to a highway. Criers and vendors of smallwares.

5. For prohibiting the forestalling, regrating or monopoly of grain, wood, meat, fish, fruit, roots, vegetables, poultry, dairy products, eggs and all articles for family use, which are usually sold in the market, and for prohibiting or regulating the purchase of such things by hucksters, grocers, butchers, runners or wholesalers, or by persons who directly or indirectly purchase or acquire them for re-sale. Prohibiting forestalling, etc. Hucksters, etc.

(a) Farmers and other producers may nevertheless sell such things at stores and shops at any time. Proviso.

6. For regulating the measuring or weighing of lime, shingles, laths, cordwood, coal and other fuel. Measuring, etc., certain articles.

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Penalties for
light weight,
etc.

7. For imposing penalties for light weight or short count or measurement in anything marketed.

Seizing
articles of
light weight,
etc.

8. For seizing and forfeiting any articles, except bread, of light weight or short measure.

Regulating
vehicles used
in market
vending.

9. For regulating vehicles, vessels and other things in which anything is exposed for sale or marketed and for imposing a reasonable duty thereon, and establishing the mode in which it shall be paid.

Sale of meat
distrained.

10. For selling, after six hours' notice, butchers' meat distrained for rent of a market stall. 3-4 Geo. V. c. 43, s. 401.

No market
fees to be
imposed on
certain
products.

402.—(1) No market fee shall be imposed, levied or collected, in respect of wheat, barley, rye, corn, oats or any other grain, hay or other seed, wool, lumber, lath, shingles, cordwood or other firewood, dressed hogs, cheese, hay, straw or other fodder, brought to market, or upon the market place, for sale or other disposal.

When fees
may be
charged on
butter, etc.
brought to
market.

(2) No market fee shall be imposed, levied or collected in respect of butter, eggs, poultry, honey, celery, small fruits or other articles in hand baskets, brought to market, or upon the market place, for sale or other disposal, unless a convenient and fit place affording shelter in summer, and shelter and reasonable protection from the cold in winter, in which to expose them for sale is provided by the corporation.

Fees not to
be charged
on articles
delivered in
pursuance of
prior contract.

(3) Where the vendor of an article brought within the municipality in pursuance of a prior contract for the sale of it proceeds directly to the place of delivery, without hawking it upon the highways or elsewhere in the municipality, no market fee shall be imposed, levied, or collected in respect of it.

Nor on
articles
brought
into municipality
after
10 a.m.

(4) No market fee shall be imposed, levied or collected in respect of any article brought into the municipality after ten o'clock in the forenoon unless it is offered or exposed for sale upon the market place.

When
articles
need not be
weighed or
measured.

(5) No by-law shall require hay, straw or other fodder to be weighed, or wood to be measured, where neither the vendor nor the purchaser desires to have it weighed or measured.

Time after
attendance
on market
not required.

(6) A person who has exposed or offered for sale an article in the market place and has paid the prescribed fee, if any, in respect of it may, after nine o'clock in the forenoon, between the 1st day of April and the 1st day of November and after ten o'clock in the forenoon, between the 1st day of November and the 1st day of April, sell such article elsewhere than in the market place.

Scale of
market fees.

(7) No market fees may be imposed, levied or collected higher than those contained in the following scale:—

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On a motor vehicle or a vehicle drawn by more than one horse or other animal in which articles are brought to the market place.... 10 cents.

If the vehicle is drawn by one horse or other animal 5 cents.

Upon a vehicle propelled or drawn by hand or a basket or vessel in which articles are brought to the market place..... 2 cents.

Upon the person bringing articles to the market place by hand and not in a vehicle, basket or vessel 2 cents.

Upon live stock brought to the market place for sale:—

A horse, mare or gelding 10 cents.

A head of horned cattle 5 cents.

A sheep, calf or swine 2 cents.

(8) No fees may be imposed, levied or collected for weighing or measuring greater than those contained in the following scale:—

Scale of fees for weighing or measuring.

For weighing a load of hay 15 cents.

For weighing slaughtered meat, or grain or other articles exposed for sale, if weighing less than one hundred pounds 2 cents.

If weighing more than one hundred and less than one thousand pounds 5 cents.

If weighing more than one thousand pounds 10 cents.

For weighing live animals, other than sheep or swine, per head 3 cents.

For weighing sheep or pigs, if more than five, per head 1 cent.

If less than five, for the lot 4 cents.

For measuring a load of wood 5 cents.

(9) Subsection 1 shall not apply to a municipality in which there is in force a by-law providing that vendors of articles in respect of which under the provisions of paragraph 3 of section 401 a market fee may be imposed may, without paying market fees, offer for sale and sell or otherwise dispose of such articles at any place within the municipality, excepting only at the market place.

Subsection 1 not to apply where by-law in force allowing sale without fee except at the market;

(10) Subject to subsection 2, the council of a municipality to which subsection 9 applies may by by-law provide for imposing, levying and collecting market fees from such vendors who voluntarily use the market place for selling such articles or from any person who or whose vehicle remains upon that part of a highway which is within 100 yards of the market place, for the purpose of selling any of such articles other than grain, seeds, dressed hogs or wool upon such highway, but driving through or across such part of a highway shall not authorize the imposition of any market fee; nor shall any market fee be imposed in respect of an article

but such by-law may impose fees on persons voluntarily using market; and on others selling within 100 yards of market.

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Exception
as to sales
to persons
carrying on
business
near
market.

Fees not to
be charged
where high-
way used as
market.

Case of
municipal-
ity again
imposing
market fees.

Power to
regulate sales
when no fees
are charged.

Proviso.

Proviso.

Inconsistent
enactments
not to apply.

Right to
sell or lease
market fees.

sold to a person carrying on business and having a *bona fide* store, shop or other similar place of business on such part of a highway.

(11) Where a highway is used as a market place or market, or part of a market place or market, no market fees shall be imposed, levied or collected upon articles brought to that part of the highway which is so used, but this subsection shall not apply to so much of a highway as adjoins or abuts upon a market square established as a market place.

(12) Subsections 9 to 11 shall not apply to any municipality where no market fees were charged or imposed on the 10th day of March, 1882, but subsections 1 to 8 and 13 and 14 of this section shall apply to such municipality in the event of market fees being thereafter charged or imposed therein.

(13) Nothing in the preceding subsections contained shall prevent any municipality wherein no market fees are imposed or charged from regulating the sale and the place of sale of any articles within the municipality to the same extent as it might do before the 10th day of March, 1882;

(a) Market fees within the meaning of this subsection shall not include fees for weighing or measuring;

(b) After nine o'clock in the forenoon between the 1st day of April and the 1st day of November, and after ten o'clock in the forenoon between the 1st day of November and the 1st day of April, no person shall be compelled to remain on or resort to any market place with any articles which he may have for sale, but may, after the expiration of such hour, sell or dispose of such articles elsewhere than in or on said market places.

(14) Whenever subsections 1 to 8 or subsections 9 to 11 of this section are in force in any municipality, so much of any Act or law as may be contrary to and as conflicts with the same shall not be in force in or apply to such municipality.

(15) A corporation may sell or lease its market fees with the right to collect them. 3-4 Geo. V. c. 43, s. 402.

403. By-laws may be passed by the councils of counties, cities and towns.

Educational Institutions—Aid to.

Grants to
universities,
colleges,
historical
societies, etc.

1. For making grants in aid of the University of Toronto or of Upper Canada College, or of any other University or College in Ontario, or of any historical, literary or scientific society.

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- (a) Such grants may be made from time to time, and may be either by one payment, or by an annual payment for a limited number of years, and upon such terms and conditions as may be agreed upon and may include supplying Upper Canada College with water from the waterworks of the city of Toronto without charge.

Endowing Fellowships.

2. For endowing fellowships, scholarships or exhibitions, and other similar prizes, in the University of Toronto, or in Upper Canada College, or in any other university or college in Ontario, for competition among the pupils of the collegiate institutes and high schools in the municipality.

Endowing fellowships, etc., in universities and colleges.

3. For granting aid to art schools approved by the Department of Education.

Aid to art schools.

4. For granting aid for the erection, establishment or equipment of an industrial school, to any philanthropic society, within the meaning of *The Industrial Schools Act* upon the board of which the council is represented.

Aid to industrial schools.

Rev. Stat. c. 271.

Supporting Pupils at High Schools, Universities and Colleges.

5. For making permanent provision for defraying the expenses of the attendance at the University of Toronto or at Upper Canada College, or at any other university or college in Ontario, of such of the pupils of any collegiate institute or high school of the municipality as are unable to incur the expense, but are desirous of, and in the opinion of the head master thereof possess competent attainments for, competing for any scholarship, exhibition or other similar prize offered by such University or College.

Supporting certain high school pupils at universities, colleges, etc.

6. For making similar provision for the attendance at any collegiate institute or high school, for the like purpose, of pupils of public schools of the municipality. 3-4 Geo. V. c. 43, s. 403.

Similar provision for attendance at high schools.

404. By-laws may be passed by the councils of towns, villages and townships.

Education.

1. For making grants in aid of or to build, preserve, enlarge or improve any collegiate institute or high school in another municipality. 3-4 Geo. V. c. 43, s. 404.

Grants to high schools.

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405. By-laws may be passed by the councils of counties and cities.

Horse Thieves.

Reward for apprehension of persons guilty of horse stealing.

1. For paying on the conviction of the offender and on the order of the judge or police magistrate before whom the conviction is had a reward of not less than \$20 to any person who pursues and apprehends, or causes to be apprehended, any person horse stealing within the municipality.

Proviso.

(a) The amount payable as the reward shall be in the discretion of the judge or police magistrate, but shall not exceed the amount fixed by the by-law.
3-4 Geo. V. c. 43, s. 405.

406. By-laws may be passed by the councils of cities and towns.

Bicycles, etc.

Regulating use of bicycles on highways.

1. For regulating the use on the highways of bicycles and other vehicles not drawn by horses, but not including motor vehicles.

Dogs—Licensing of.

Licensing dogs.

2. For licensing and requiring the registration of dogs and for imposing a license fee on the owners, possessors or harbourers of them, with the right to impose a larger fee in the cases of bitches or for each additional dog or bitch where more than one is owned, possessed or harboured by any one person or in any one household;

2 Geo. V.
c. 65.

Rev. Stat.
c. 246.

(a) Where the license fee is equal to or exceeds the amount of the tax imposed by *The Dog Tax and Sheep Protection Act* sections 3 to 8 of that Act shall not apply while the by-law remains in force, and it shall not be necessary to enter any particulars as dog taxes on the collector's roll.

Drunk and Disorderly Person.

Release of persons arrested for drunkenness.

3. For providing that the chief constable or any member of the police force in charge of a police station to which a person is brought charged with being drunk without being disorderly may release him without bringing him before a justice of the police or police magistrate.

Fuel Yards.

Establishing fuel yards.

4. With the approval of the Lieutenant-Governor in Council, and within the limitations and restrictions, and under the conditions prescribed by the Order-in-Council for borrowing such sums as may be necessary for temporarily maintaining fuel yards and purchasing supplies of such fuel, and selling and disposing of them to residents of the muni-

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cipality in anticipation of or during a period of such an actual or anticipated scarcity or failure of supply as may appear to create an emergency.

- (a) The by-law shall not require the assent of the electors but shall require a vote of two-thirds of all the members of the council.

Garbage Collection.

5. For establishing and maintaining a system for the collection, removal and disposal at the expense of the corporation of ashes, garbage and other refuse, and with the approval of the Provincial Board of Health for erecting and maintaining such buildings, machinery and plant as may be deemed necessary for that purpose, or for contracting with some person for the collection, removal and disposal by him of the ashes, garbage and other refuse upon such terms and conditions and subject to such regulations as may be deemed expedient.

- (a) Where the amount required for the erection of such buildings, machinery and plant and for acquiring the requisite land exceeds \$5,000, the by-law shall not be finally passed without the assent of the electors entitled to vote on money by-laws.

6. For the collection, removal and disposal by the corporation of ashes, garbage and other refuse throughout the whole municipality or in defined areas of it at the expense of the owners and occupants of the land therein, and for imposing upon such land according to its assessed value a special rate to defray the expense of such collection, removal and disposal.

- (a) No land shall be exempt from the special rate, anything in any general or special Act or in any by-law to the contrary notwithstanding.

- (b) The special rate may be collected or recovered in the manner provided by section 500.

Laundrymen.

7. For licensing, regulating and governing laundrymen and laundry companies and for inspecting and regulating laundries;

- (a) The by-law shall not apply to or include women carrying on a laundry business in private dwelling houses, and employing female labour only, or to such dwelling houses.

- (b) The by-law may provide that a license shall not be granted if it is deemed that the location of the laundry is an undesirable one.

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Lavatories, etc.

Maintaining
public con-
veniences in
cities and
towns.

8. For constructing and maintaining lavatories, urinals, water closets and like conveniences, where deemed requisite, upon the highways or elsewhere, and for supplying them with water, and for defraying the expense thereof and of keeping them in repair and good order.

Lifeboat Associations.

Aid to life-
boat associa-
tion.

9. For granting aid to any organization owning, manning and working lifeboats or other apparatus for life saving purposes.

Residential Streets and Building Line.

Setting
apart resi-
dential
streets.
Fixing
building
line.

10. For declaring any highway or part of a highway to be a residential street, and for prescribing the distance from the line of the street in front of it at which no building on a residential street may be erected or placed.

(a) It shall not be necessary that the distance shall be the same on all parts of the same street.

(b) The by-law shall not be passed except by a vote of two-thirds of all the members of the council.

Sewerage System—Management of by Commissioners.

Commis-
sioners to
manage
sewerage
system.
Rev. Stat.
c. 204.

11. Where the sewerage system includes the disposal or purification of sewage upon a sewage farm by filtration or other artificial means, for placing the management of it under a commission established under *The Public Utilities Act*.

(a) The by-law shall not be passed without the assent of the municipal electors.

Superannuation and Benefit Funds.

Superannua-
tion and
benefit funds
for fire and
police force.

12. For granting aid for the establishment and maintenance of superannuation and benefit funds for the members of the police force and of the fire brigade, and of other officers and employees of the corporation, and of their wives and families.

Surveyors and Engineers.

Corporation
surveyor
and
engineers.

13. For appointing an Ontario land surveyor as surveyor for the corporation and for appointing one or more engineers.

(a) An engineer so appointed and his assistants shall, in the performance of their duties, possess all the

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powers, rights and privileges of a surveyor under Rev. Stat. c. 165.
The Surveys Act. 3-4 Geo. V. c. 43, s. 406.

407. By-laws may be passed by the councils of towns and villages.

Fire Engines, etc.

1. For purchasing fire engines, apparatus or appliances and appurtenances for fire protection at a cost not exceeding \$5,000, and for the issue of debentures therefor, payable in equal annual instalments of principal and interest during a period not exceeding ten years. By-laws for purchase of fire engines and appliances.

(a) It shall not be necessary to obtain the assent of the electors to the by-law if it is passed by a two-thirds vote of all the members of the council.

Vehicles Used for Hire, etc.—Livery and Boarding Stables.

2. For licensing, regulating and governing teamsters, carters and dray men, drivers of cabs and other vehicles for hire, and regulating the charges for the conveyance of goods or for other services by them. Licensing, etc. teamsters, etc.

3. For licensing, regulating and governing the keepers of livery stables, and of horses and cabs, carriages, omnibuses and other vehicles used or kept for hire; for regulating the fares to be charged for the conveyance of goods or passengers, and for enforcing payment thereof; Licensing livery stables, cabs, etc.

4. For defining districts within which a livery or boarding stable shall not be established. 3-4 Geo. V. c. 43, s. 407. Prohibited areas.

408. By-laws may be passed by the councils of counties.

Booms—Protection and Regulation of.

1. For protecting and regulating booms on any stream or river for the safe keeping of timber, saw-logs and staves. Protecting booms.

Fences.

2. For the exercise in respect of fences along highways under the jurisdiction of the council, of the powers conferred upon the councils of local municipalities by paragraph 29 of section 399 and by *The Snow Fences Act.* Fences. Rev. Stat. c. 211.

Guaranteeing Debentures.

3. For guaranteeing debentures of any local municipality in the county. Guaranteeing debentures.

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Poles and Wires.

Regulating
erection of
poles, towers,
wires, etc.,
on county
roads.

Rev. Stat.
c. 107.

4. Subject to *The Municipal Franchises Act* for permitting and regulating the erection and maintenance of electric light, power, telegraph and telephone poles, towers and wires on, and the laying of pipes or conduits for the conveyance of water, gas or sewage under, the highways, under the jurisdiction of the council.

Publicity Purposes.

Annual
expenditure
for diffusing
information.

5. For expending for the purposes mentioned in section 428 and for diffusing information respecting the advantages of the county as an agricultural centre a sum not exceeding in any year \$3,000.

Traffic—Regulation of; Licensing Livery Stables, etc.

Regulation
of traffic on
certain
county roads.

6. If there are gravel or macadamized highways under the jurisdiction of the council, and under its immediate control, which are being kept up and repaired by municipal taxation, and upon which no toll is collected;

Licensing
livery
stables.

(a) for licensing, regulating and governing the keepers of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters;

Rates of
fare.

(b) for regulating the fares to be charged for the conveyance of goods or passengers;

Tires.

(c) for regulating the traffic on such highways and the width of the tires on the wheels of vehicles used for the conveyance of articles of burden, goods, wares, or merchandise on such highways; and

Lock shoes.

(d) for regulating the use of lock shoes on vehicles used on such highways. 3-4 Geo. V. c. 43, s. 408.

409. By-laws may be passed by the councils of cities.*Commissioner of Industries.*

Commis-
sioner of
Industries.

1. For the establishment and maintenance of a department of industries and for appointing a commissioner of industries to bring to the notice of manufacturers and others the advantages of the city as a location for industrial enterprises, summer resorts, residential, educational and other purposes.

Location of Stables, etc.

Location of
livery stables,
etc.

2. For regulating and controlling the location, erection and use of buildings as livery, boarding or sales stables, and stables in which horses are kept for hire or kept for use with

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vehicles in conveying passengers, or for express purposes, and stables for horses for delivery purposes, laundries, butcher shops, stores, factories, blacksmith shops, forges, dog kennels, hospitals or infirmaries for horses, dogs or other animals and for prohibiting the erection or use of buildings for all or any or either of such purposes within any defined area or areas or on land abutting on any defined highway or part of a highway;

- (a) The by-law shall not be passed except by a vote of two-thirds of all the members of the council;
- (b) This paragraph shall not apply to a building which was on the 26th day of April, 1904, erected or used for any of such purposes, so long as it is used as it was used on that day.

Sidelights on Vehicles.

3. For requiring all vehicles using the public streets after dusk and before dawn to carry lighted side lights plainly visible from in front of and from behind such vehicles.

Vehicles to carry side lights at night.

Tussock Moths.

4. For requiring persons to destroy all tussock moths and the cocoons thereof on trees or elsewhere upon the premises owned or occupied by them. 3-4 Geo. V. c. 43, s. 409.

For erection of tussock moths.

410. By-laws may be passed by the councils of cities having a population of not less than 100,000.

Apartment Houses, Tenement Houses and Garages.

1. For prohibiting or for regulating and controlling the location or erection within any defined area or areas or on land abutting on defined highways or parts of highways of apartment or tenement houses and of garages to be used for hire or gain.

Location of apartment houses and garages.

- (a) For the purposes of this paragraph an apartment or tenement house shall mean a building proposed to be erected or altered for the purpose of providing three or more separate suites or sets of rooms for separate occupation by one or more persons.

Building Restrictions—Deviation from.

2. For authorizing the city architect, or other officer, appointed for that purpose to permit in special cases, which in his judgment warrant it, such deviation from the by-laws regulating the erection of buildings as he may deem proper.

Deviation from by-law regulating erection of buildings.

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Speedways.

Setting
apart streets
for fast
driving.

3. For setting apart one or more highways on which horses may be ridden or driven more rapidly than is permitted upon other highways, and for regulating the use for such purpose of any such highway.

(a) If a majority of the property owners on any such street petition against such by-law it shall be repealed.

University of Toronto.

4. For granting aid to the University of Toronto.

Unslaughtered Cattle.

Seizure of
cattle, etc.,
unfit for
food.

5. For authorizing the seizing, in order to prevent their use as food, of unslaughtered cattle, sheep, calves and hogs which have died within the municipality, and for disposing of the carcasses so as not to endanger the public health, and so as to secure to the owner such value as remains over and above the expenses incurred in disposing of them. 3-4 Geo. V. c. 43, s. 410.

411. By-laws may be passed by the councils of townships.*Fires—Prevention Of.*

Prevention
of fires.

1. Within defined areas, where the number of the inhabitants or the proximity of buildings in any part of the township renders it expedient to do so, for exercising the powers conferred on the councils of urban municipalities by paragraphs 16 to 35 of section 400.

Portable Steam Engines.

Portable
steam
engines.

2. For prescribing the distance from a highway within which unenclosed portable steam engines may not be used for running a saw-mill or a shingle mill.

Sleighting—Keeping Open Highways During Season of.

Keeping
roads open
in winter.

3. For providing for keeping open the highways during the season of sleighting in each year; and for the application of so much of the commutation of the statute labour fund as may be necessary for that purpose.

Requiring
overseers of
highways
to keep open
highways.

4. For requiring the overseers of highways or the pathmasters to make and keep open the highways during the season of sleighting.

Powers.

(a) Such overseers and pathmasters may require the persons liable to perform statute labour to assist in keeping open such highways, and shall give to

(S. 411)

any person so employed a certificate of his having performed statute labour and of the number of days' work done, for which he shall be allowed on his next season's statute labour.

Streams, Creeks and Water-courses—Prohibiting Obstruction of.

5. For prohibiting the obstruction of streams, creeks and water-courses by trees, brushwood, timber or other materials, and for requiring the clearing away and removing of the obstructions by the person causing the same. Prohibiting obstruction of streams, etc.

Weighing Machines.

6. For erecting and maintaining weighing machines within the municipality or within an adjacent village, and charging fees for the use thereof, not being contrary to the limitations prescribed by subsection 8 of section 402. Erecting and maintaining weighing machines.

Wet Lands.

7. For purchasing any wet land in the township, the price of which, in case of Crown lands, shall be fixed by the Lieutenant-Governor in Council, and for draining such land. Purchase of wet lands from Government, etc.

Naming Streets and Numbering Houses.

8. In the case of townships bordering on cities having a population of not less than 50,000 for naming and surveying streets and for numbering houses and lots under and in conformity with paragraphs 38 and 39 of section 400. 3-4 Geo. V. c. 43, s. 411. Naming streets, etc.

412. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory and of cities having a population of less than 100,000 and by the Board of Commissioners of Police of cities having a population of not less than 100,000.

Auctioneers.

1. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, and for prohibiting the granting of a license to an applicant who is not of good character, or whose premises are not suitable for the business of auctioneer or are upon a residential or other highway in which it is deemed not desirable that the business should be carried on; for ascertaining by such means as the by-law may provide whether an applicant is not of good character or his premises are not suitable for the business; for determining the time the license shall be in force; Licensing, etc., auctioneers.

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- (a) No such by-law shall apply to a sheriff or bailiff offering for sale goods or chattels seized under an execution or distrained for rent.

Bill Posters.

Bill posters

2. For licensing, regulating, and governing bill posters, advertising sign painters, bulletin board painters, sign posters and bill distributors, and for prohibiting the posting up or distributing of posters, pictures or hand bills which are indecent or tend to corrupt morals. 3-4 Geo. V. c. 43, s. 412.

413. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory and by Boards of Commissioners of Police of cities.

Junk and Second-hand Shops, etc.

Licensing and regulating junk shops, etc.

R.S.C. c. 140

1. For licensing, regulating and governing junk shops, and second-hand shops and dealers in second-hand goods, and for revoking and cancelling the license of any person convicted of a second offence against the by-law or of an offence against sections 399 to 401 of *The Criminal Code*.

- (a) "Dealers in second-hand goods" shall include persons who go from house to house or along high-ways for the purpose of collecting, purchasing or obtaining second-hand goods.
- (b) "Second-hand goods" shall include bottles, bicycles, waste paper, rags, bones, old iron or other scrap or junk.
- (c) The fee to be paid for the license shall not exceed \$20 for one year. 3-4 Geo. V. c. 43, s. 413.

414. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory.

Public Fairs.

Public fairs for sale of cattle, etc.

1. For authorizing, on petition of at least fifty electors, the holding at one or more of the most public and convenient places in the municipality public fairs restricted to the sale, barter and exchange of cattle, horses, sheep, pigs and articles of agricultural production or requirement.

Rules for governing same.

- (a) The by-law shall prescribe rules and regulations for the government of the fairs, and appoint a person to see that they are carried out, and shall also fix the fees to be paid to him by persons attending the fair, and public notice of the passing of the by-law shall be forthwith given by the council.

Notice of passing of by-law.

(S. 414)

Surgeons.

2. For appointing one or more surgeons of the gaol and other institutions under the control of the corporation. Appointing inspectors, gaol surgeons, etc.
3-4 Geo. V. c. 43, s. 414.

415. By-laws may be passed by the councils of counties, cities, separated towns and towns in unorganized territory.

Tanneries.

1. For defining areas within which tanneries, rag, bone, or junk shops, or industries of a noxious or unhealthy character, may not be carried on. Defining areas in which certain trades may not be carried on.

(a) This paragraph shall not apply to a tannery erected before the 7th day of April, 1890. 3-4 Geo. V. c. 43, s. 415.

416. By-laws may be passed by the councils of counties and towns, and of cities having a population of less than 100,000 and by the Board of Commissioners of Police of cities having a population of not less than 100,000.

Hawkers and Pedlars.

1. For licensing, regulating and governing hawkers, pedlars and petty chapmen, and other persons carrying on petty trades, or who go from place to place or to other men's houses on foot, or with any animal, vehicle, boat, vessel or other craft, bearing or drawing goods, wares, or merchandise for sale, or otherwise carrying goods, wares or merchandise for sale. Licensing, etc., hawkers, petty chapmen.

(a) No such license shall be required for hawking, peddling or selling goods, wares or merchandise to a retail dealer, or for hawking, peddling or selling goods, wares or merchandise, the growth, produce or manufacture of Ontario, not being liquors within the meaning of *The Liquor License Act*, if the same are hawked or peddled by the manufacturer or producer of them, or by his *bona fide* servants or employees having written authority to do so. When license not required. Roy Stat. c. 215.

(b) Such servant or employee shall exhibit his authority when required so to do by any municipal or peace officer. Production of authority of servant.

(c) In a prosecution for a breach of the by-law the onus of proving that he does not for either of the reasons mentioned in clause (a) require to be licensed shall be upon the person charged. When required.

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Certain
powers
not affected.

- (d) Nothing in this paragraph shall affect the powers to pass by-laws under sections 401 and 402, paragraph 1 of section 419, and paragraphs 6 and 7 of section 420.

"Hawkers,"
meaning of.

- (e) "Hawkers" in this paragraph shall include agents for persons not resident within the county who sell or offer for sale tea, coffee, spices, baking powder, dry goods, watches, plated ware, silver ware, furniture, carpets, upholstery, millinery or jewellery, spectacles or eyeglasses, or who carry and expose samples or patterns of any such article, which is to be afterwards delivered within the county to a person not being a wholesale or retail dealer in such article.

Force of
by-law of
town not
separated.

- (f) Where the council of a town not separated from a county has passed a by-law under this paragraph a by-law of the county shall not be in force in the town while the by-law of the town remains in force.

Fees.

- (g) The fee to be paid for the license under by-laws passed under this paragraph may be lower in the case of persons who have resided continuously within the municipality for which the license is sought for at least one year prior to the application therefor than in the case of persons who have not so continuously resided, but in cities having a population of not less than 100,000 the fee shall not be more than \$50 for a motor vehicle or a two-horse waggon, \$30 for a one-horse waggon, \$15 for a push-cart, \$10 for one carrying a pack, and \$1 for one carrying a basket.

License to
be produced
on demand.

- (h) The licensee shall at all times whilst carrying on his business have his license with him and shall upon demand exhibit it to any municipal or peace officer, and if he fails to do so shall, unless the same is accounted for satisfactorily, incur a penalty of not less than \$1 or more than \$5.

Penalty.

- (i) If a peace officer demands the production of a license by any person to whom the by-law applies and the demand is not complied with it shall be the duty of the peace officer, and he shall have power, to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to law.

Supplying
licenses.

2. For providing the treasurer or clerk of the county or the clerk of any municipality within the county with licenses under by-laws passed under paragraph 1 of section 412 and paragraph 1 of this section, to be issued under such regulations as may be prescribed to persons applying for them.

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3. For prohibiting the sale of fruit, candy, peanuts, ice cream or ice cream cones from a basket, or a waggon, cart or other vehicle upon any highway or part of it, or in any public park or other public place. Prohibiting sale of fruit, etc. on public streets, etc.

- (a) The by-law shall not apply to a farmer, market gardener or other person selling or delivering goods at any place of business or residence upon such highway or part thereof. 3-4 Geo. V. c. 43, s. 416. Proviso.

417. By-laws may be passed by the councils of counties, towns, villages and townships and of cities having a population of less than 100,000, and by the Boards of Commissioners of Police of cities having a population of not less than 100,000.

Intelligence Offices.

1. For licensing and governing suitable persons to keep intelligence offices; for registering the names and residences of servants, workmen, clerks and other persons seeking employment; for procuring employment for them and giving information to them and to persons in want of them, and for fixing the fees to be charged by the keepers of such offices, and the duration of the license. Licensing intelligence offices.

2. For regulating such intelligence offices. Regulation

3. For revoking any such license. Revocation of license.

- (a) The license fee shall not exceed \$10 for one year. Fee.

Victualling Houses, etc.

4. For limiting the number of and licensing and regulating victualling houses, ordinaries, and houses where fruit, fish, oysters, clams or victuals are sold to be eaten therein, and places not being a tavern or shop licensed under *The Liquor License Act* for the lodging, reception, refreshment or entertainment of the public. Limiting number of and licensing. Victualling houses, etc. Rev Stat. c. 215.

5. For revoking the license. Revocation of license.

- (a) The sum to be paid for the license shall not exceed \$20. 3-4 Geo. V. c. 43, s. 417. Fees.

418. By-laws may be passed by the councils of towns and cities having a population of less than 100,000, and by Boards of Commissioners of Police of cities having a population of not less than 100,000.

Electrical Workers.

1. For examining, licensing and regulating electrical workers. 3-4 Geo. V. c. 43, s. 418. Electrical workers.

419. By-laws may be passed by the councils of towns and villages and of cities having a population of less than 100,000 and by the Boards of Commissioners of Police of cities having a population of not less than 100,000.

Sale of Meat.

Regulating
sale of meat.

1. For granting annually, or oftener, licenses for the sale of fresh meat in quantities less than by the quarter carcass, and fixing and regulating the places where such sale shall be allowed, and for prohibiting the sale of fresh meat in less quantity than the quarter carcass, unless by a licensed person and in a place authorized by the council;

Proviso.

(a) The power conferred by paragraph 1 shall not be affected or restricted by anything in section 402.

(b) Nothing in paragraph 1 shall affect the powers conferred by paragraphs 3 and 4 of section 401.

(c) The fee to be paid for the license shall not exceed \$50 in a city and \$25 in a town or village.

Tobacconists.

Licensing
and regulat-
ing keepers
of tobacco
stores.
Rev. Stat.
c. 215,

2. For licensing, regulating and governing keepers of stores and shops other than taverns and shops licensed under *The Liquor License Act* where tobacco, cigars or cigarettes are sold by retail, and for revoking any license granted. 3-4 Geo. V. c. 43, s. 419.

420. By-laws may be passed by the councils of towns, townships, villages and cities having a population of less than 100,000 and by Boards of Commissioners of Police in cities having a population of not less than 100,000.

Bagatelle and Billiard Tables.

Billiard,
pool and
bagatelle
tables.

1. For licensing, regulating and governing persons who for hire or gain, and proprietary clubs which directly or indirectly keep, or have in their possession, or on their premises any billiard, pool or bagatelle table, or keep or have any such table, whether used or not, in a house or place of public entertainment or resort; for limiting the number of licenses to be granted and the number of such tables which shall be licensed and for revoking any license granted.

(a) "Proprietary club" shall mean a club the members of which or some of them are not shareholders of the club, or in some similar manner interested in its property.

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Dogs.

2. For prohibiting or regulating the running at large of dogs; for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law; and for selling dogs so impounded at such time and in such manner as may be provided by the by-law.

Prohibiting
running at
large of
dogs.

- (a) For the purposes of this paragraph a dog shall be deemed to be running at large when found in a highway or other public place and not under the control of any person.

Exhibitions, Places of Amusement, etc.

3. For regulating and licensing exhibitions held for hire or gain, theatres, music halls, bowling alleys, moving picture shows and other places of amusement, and for prohibiting the location of them, or a particular class of them, on land abutting on any highway or part of a highway to be named in the by-law and for revoking any license granted.

Exhibitions,
Bowling
alleys, etc.

Plumbers.

4. For licensing, regulating and governing plumbers.

Plumbers.

Shows.

5. For prohibiting or regulating and licensing exhibitions of wax work, menageries, circus-riding and other like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement, and merry-go-rounds, switchback railways, carousals and other like contrivances; and for imposing penalties not exceeding the amount of the license fee on offenders against the by-law; and for levying the same by distress and sale of the goods and chattels of the showman or proprietor, or belonging to or used in such exhibition or show whether owned or not owned by such showman or proprietor.

Exhibitions
of wax
work,
shows, etc.

- (a) A license shall not be granted for any such exhibition or show to be held on the days of the exhibition of any district or township agricultural society, within 300 yards from the grounds of the society or for any such exhibition or show in or in connection with which gambling is carried on or goods, wares or merchandise are sold or trafficked in.

Licenses not
to be granted
for certain
shows and
places.

- (b) The fee to be paid for the license shall not exceed \$500.

Fees.

Transient Traders.

6. For licensing, regulating and governing transient traders and other persons whose names have not been entered on the assessment roll in respect of income or business assess-

Licensing
and regu-
lating
transient
traders.

(S. 420)

ment for the then current year; and who offer goods, wares or merchandise for sale by auction, conducted by themselves or by a licensed auctioneer or otherwise, or who offer them for sale in any other manner.

Require-
ment as to
obtaining
license be-
fore doing
business.

7. For requiring transient traders and other persons whose names are not entered on the assessment roll or are entered on it for the first time, in respect of income or business assessment, and who so offer goods, wares or merchandise for sale, to pay a license fee before commencing to trade.

Stock of
insolvent.

(a) A by-law passed under paragraphs 6 or 7 shall not apply to the sale of the stock of an insolvent which is being sold or disposed of within the county or district in which he carried on business therewith at the time of the issue of an attachment or of the execution of an assignment.

Meaning of
words
"transient
traders."

(b) "Transient traders" shall include any person commencing business who has not resided continuously in the municipality for at least three months next preceding the time of his commencing such business there.

Fees.

(c) The fee to be paid for a license under paragraph 8 shall not exceed in a city or town \$250, in a village in unorganized territory \$200, and in other local municipalities \$100.

(d) The sum paid for a license shall be credited to the person paying it on account of taxes thereafter payable by him. 3-4 Geo. V. c. 43, s. 420.

421. By-laws may be passed by the councils of towns and villages and Boards of Commissioners of Police in cities.

Bands and Musical Instruments.

Bands of
music.

1. For regulating or prohibiting the playing of bands and of musical instruments in any highway, park, or public place except by a military band attached to any regular corps of the Militia of Canada when on duty under the command of its regular officer.

Junk Stores—Purchasing or Receiving Pledges from Minors.

Junk shops,
buying from
minors.

2. For prohibiting keepers of second-hand shops or junk stores or shops directly or indirectly purchasing from, exchanging with, or receiving in pledge from any minor appearing to be under the age of 18 years, without written authority from a parent or guardian of such minor, any metals, goods or articles. 3-4 Geo. V. c. 43, s. 421.

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422. By-laws may be passed by Boards of Commissioners of Police of cities.

Cab Drivers—Licensing of.

1. For licensing drivers of cabs.

Licensing
cab drivers.

Children in Certain Occupations.

2. For regulating and controlling children engaged as express or despatch messengers, vendors of newspapers and small wares and bootblacks.

Control of
children.

Fares for Conveyance of Goods and Passengers.

3. For establishing the rates of fare to be taken by the owners or drivers of vehicles for the conveyance of goods or passengers, either wholly within the city or from any point within the city to any other point not more than three miles beyond its limits, and providing for enforcing payment of such fares.

Rates of
fare for
conveyance
of goods or
passengers.

Livery Stables, etc.—Hours of Labour.

4. For regulating the hours of labour of persons employed in livery or boarding stables as drivers of motor vehicles, cabs, carriages or sleighs kept for hire, or by the owners of horses, carts, trucks, omnibuses and other vehicles kept for hire.

Regulating
hours of
labour of
persons
employed in
livery
stables, etc.

Livery Stables, etc.—Licensing of.

5. For licensing and regulating the owners of livery stables and of horses, cabs, carriages, carts, trucks, sleighs, omnibuses and other vehicles regularly used for hire within the city, whether such owners reside within or without the city.

Licensing
and regulat-
ing livery
stables,
cabs, etc.

Parades and Traffic on Highways.

6. For regulating parades or processions on highways, and from time to time, and as occasion may require, prescribing the routes of travel to be observed by all vehicles, horses and persons upon the highways, and preventing the obstruction of the highways during public processions or public demonstrations, and for giving directions to the police constables for keeping order, and preventing any collision or obstruction of traffic at the intersections or other frequented portions of the highways on all occasions when the highways are thronged or liable to obstruction.

Regulating
traffic and
parades

- (a) This paragraph shall not affect the right, if any, of a street railway company to regulate the routes of its cars and no regulation or direction which may affect a street railway company shall be

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made or given until the company has been afforded an opportunity of being heard. 3-4 Geo. V. c. 43, s. 422.

Destitute Insane Persons—Support of.

County council to make provision for the destitute insane.

423. The council of every county shall make provision for the whole or partial support within the county of such insane, destitute persons as cannot be admitted to a provincial Asylum, and shall determine the sums to be paid for such support, and the persons to whom the same shall be paid. 3-4 Geo. V. c. 43, s. 423.

Members of the Council—Payment of.

Remuneration to councillors and committee-men.

424. By-laws may be passed by the councils of counties and townships for paying the members of the council for their attendance at meetings of the council or of its committees at a rate not exceeding \$5 a day, and five cents for each mile necessarily travelled in going to and from such meetings. 3-4 Geo. V. c. 43, s. 424.

Remuneration of aldermen in certain cities.

425. By-laws may be passed by the councils of cities having a population of not less than 100,000 for paying an annual allowance, not exceeding \$300 to aldermen, and an additional allowance not exceeding \$100 to each chairman of a standing committee and to the chairman of the court of revision and the Local Board of Health.

- (a) The by-law shall provide for the deduction from such allowance of a reasonable sum to be fixed by the council for each day's absence from meetings. 3-4 Geo. V. c. 43, s. 425.

Members of Certain Councils may be Appointed Commissioners.

Appointment of member of council as road commissioner, &c.

426. A member of the council of a county, village or township may be appointed commissioner, superintendent or overseer of any highway or of any work undertaken wholly or in part at the expense of the corporation and may be paid the like remuneration for his services as if he were not a member of the council. 3-4 Geo. V. c. 43, s. 426.

Expenses of Reception of Distinguished Guests and Travelling Expenses.

Annual appropriation for travelling and other expenses.

427. The council of a city may pay for the reception and entertainment of distinguished guests, and travelling expenses incurred in respect of matters pertaining to the interests of the corporation, a sum not exceeding in any year in the case of,

(S. 427)

- (a) a city having a population of not less than 100,000, \$10,000;
- (b) a city having a population of not less than 20,000, \$2,500;
- (c) other cities, \$500. 3-4 Geo. V. c. 43, s. 427.

Publicity Purposes.

428. The council of every city may expend a sum not exceeding in any year \$3,000 and the council of every town having a population of not less than 5,000 may expend a sum not exceeding in any year \$500, in diffusing information respecting the advantages of the municipality as a manufacturing, business, educational or residential centre, or as a desirable place in which to spend the summer months, and the councils of other municipalities except counties may expend for the like purpose a sum not exceeding in any year \$100. 3-4 Geo. V. c. 43, s. 428.

Appropriation for diffusing information in advance of publicity.

PART XXI.

HIGHWAYS AND BRIDGES.

Powers and Duties as to.

429.—(1) In this Part

- (a) "County bridge" shall mean a bridge under the exclusive jurisdiction of the council of a county.

Interpretation.

"County Bridge."

(2) Except as provided by section 445 this Part shall not apply to a Provincial road or bridge under the control of the Crown. 3-4 Geo. V. c. 43, s. 429.

430. Where by this Part power is conferred upon a council to pass by-laws for acquiring or for assuming a highway it shall include the power to pass by-laws for acquiring or for assuming part of a highway. 3-4 Geo. V. c. 43, s. 430.

Power to acquire part of highway.

431. Where power to pass by-laws in respect of a highway or bridge is by this Act conferred on a council, unless otherwise expressly provided, it shall be exercisable only by the council having jurisdiction over the highway or bridge, or if the highway or bridge is under the joint jurisdiction of two or more councils only by the joint action of such councils, and a by-law by all of them shall be necessary for the exercise of such power. 3-4 Geo. V. c. 43, s. 431.

What councils to exercise powers re highways and bridges

432. Except in so far as they have been stopped up according to law all allowances for roads made by the Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has

What shall constitute public highways.

been expended for opening them, or on which statute labour has been usually performed, all roads passing through Indian lands, all roads dedicated by the owner of the land to public use, and all alterations and deviations of and all bridges over any such allowance for road, highway or road, shall be common and public highways. 3-4 Geo. V. c. 43, s. 432.

Highways vested in corporation having jurisdiction over them.

433. Unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under the provisions of this Act. 3-4 Geo. V. c. 43, s. 433.

Jurisdiction of councils over highways.

434. Except where jurisdiction over them is expressly conferred upon another council, the council of every municipality shall have jurisdiction over all highways and bridges within the municipality. 3-4 Geo. V. c. 43, s. 434.

Exception as to road owned by company, etc.

435. The next preceding two sections shall not apply to roads or bridges owned by companies or individuals. 3-4 Geo. V. c. 43, s. 435.

Jurisdiction of county councils over roads and bridges.

436.—(1) The council of a county shall have jurisdiction over every

(a) highway, bridge and boundary line assumed by the council;

(b) bridge crossing a river, stream, pond or lake forming or crossing a boundary line between local municipalities other than a city or separated town in the county; and

(c) bridge crossing a river or stream over 100 feet in width within the limits of a village in the county where the bridge forms part of a main highway leading through the county.

Power to limit jurisdiction.

(2) The council may provide that the jurisdiction conferred upon it by clause (b) of subsection 1 shall not extend to bridges over rivers, streams, ponds or lakes, less than 80 feet in width, or of such width less than 80 feet, as may be specified in the by-law. 3-4 Geo. V. c. 43, s. 436.

Jurisdiction over bridges on county boundaries.

437. The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between counties shall have joint jurisdiction over such bridges. 3-4 Geo. V. c. 43, s. 437.

Over bridges on boundaries between county and city, etc.

438. The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between a county and a city or separated town shall have joint jurisdiction over such bridges. 3-4 Geo. V. c. 43, s. 438.

439. The councils of the local municipalities between which they run shall have joint jurisdiction over all boundary lines, whether or not they form also county boundary lines, which have not been assumed by the council of the county, and over the bridges on them except such bridges crossing rivers, streams, ponds or lakes forming or crossing such boundary lines as by the provisions of this Act are under the jurisdiction of another council or other councils. 3-4 Geo. V. c. 43, s. 439.

Over boundaries between local municipalities.

440. Where a boulevard, drive or highway or a public avenue or walk is owned or has been opened and laid out or is under the authority of this Act assumed, or a bridge is owned or has been constructed or is under the authority of this Act assumed by the corporation of a municipality other than that in which it is situate the council of that corporation shall have jurisdiction over it. 3-4 Geo. V. c. 43, s. 440.

Jurisdiction where corporation owns bridge, etc. in another municipality.

441.—(1) The council of a village may pass by-laws for the assumption by the corporation of the village, with the consent of, and on such terms and conditions as may be agreed on with, the council of the county, of any bridge within the limits of the village and under the jurisdiction of the council of the county.

Assumption by villages of bridges under control of county.

(2) When the by-law takes effect the bridge shall cease to be under the jurisdiction of the council of the county and shall come and thereafter remain under the jurisdiction of the council of the village, and shall be and remain toll free. 3-4 Geo. V. c. 43, s. 441.

Effect of by-law.

442. The council having jurisdiction over a bridge shall have jurisdiction over the approaches to it for 100 feet next adjoining each end of the bridge. 3-4 Geo. V. c. 43, s. 442.

Approaches to bridges.

443. Where land annexed to a city or town under this Act abuts on a highway the highway shall be under the joint jurisdiction of the councils of the city or town and the adjacent municipality or municipalities. 3-4 Geo. V. c. 43, s. 443.

Joint maintenance of roads where land annexed to city or town.

444.—(1) The corporations of adjoining municipalities may enter into an agreement for the maintenance and repair of any highway forming the boundary between such municipalities, including the bridges thereon which it is their duty to maintain and repair, whereby each of them may undertake, for a term of years not to exceed ten years, to maintain and keep in repair any portion of such highway for its whole width, and to indemnify and save harmless the other from any loss or damage arising from the want of repair of such portion.

Agreements between adjoining municipalities as to maintenance of boundary road.

(2) When the agreement is confirmed by by-law of the council of each of the municipalities, the by-law shall be registered.

Agreement to be registered.

istered in the registry office of the registry division in which the highway is situate.

Effect of.

(3) After the registration of the by-law, each corporation shall have jurisdiction over that portion of the road which it has undertaken to maintain and keep in repair, and shall be liable for the damages incurred by reason of neglect to maintain and keep the same in repair; and the other corporation shall be relieved from all liability in respect of its maintenance and repair. 3-4 Geo. V. c. 43, s. 444.

Proclamation bringing government road or bridge under jurisdiction of municipality.

445. Where the Lieutenant-Governor in Council by proclamation declares, which it shall be lawful for him to do, that any public road or bridge under the control of the Minister of Public Works shall not be under his control after a day named in the proclamation such road or bridge shall after that day cease to be under the control of the Minister and no tolls shall be collected thereon and the road or bridge shall be under the jurisdiction of the council of the local municipality in which it is situate, or if it is partly situate in two or more municipalities shall be under the jurisdiction of the councils of such municipalities, each having jurisdiction over the part which lies within its municipality, or if it lies between two or more municipalities shall be under the joint jurisdiction of their councils. 3-4 Geo. V. c. 43, s. 445.

Assumption by county councils of highways, bridges and boundary lines.

446.—(1) The council of a county may by by-law assume as a county road any highway, or as a county bridge any bridge, within a town, not being a separated town or within a village or township.

(2) The by-law shall not take effect until assented to by the council of the town, village or township.

(3) The council of a county may also by by-law assume as a county road any county or township boundary line.

(4) The council of a county may also by by-law assume as a county road any highway in a town, not being a separated town, or in a village or township which connects with a county road.

(5) Where a highway is assumed under this section the bridges thereon shall also be assumed as county bridges.

Repeal of by-law.

(6) A by-law passed under the authority of this section may be at any time repealed by the council of the county.

Effect of repeal.

(7) After the repeal of the by-law such highway or bridge shall cease to be under the jurisdiction of the council of the county and shall fall and be under the jurisdiction of the council or councils which had jurisdiction over it at the time of the passing of the by-law for assuming it. 3-4 Geo. V. c. 43, s. 446.

447.—(1) The council of a city or town may pass by-laws for assuming for the purpose of a public avenue or walk any highway in an adjacent local municipality and for acquiring so much land on either side of such highway as may be required to increase its width to not more than 100 feet.

Assuming highway in adjacent municipality as a public avenue or walk.

(2) The by-law shall not take effect unless or until it is assented to by by-law of the council of the adjacent municipality. 3-4 Geo. V. c. 43, s. 447.

Assent of other council.

448.—(1) The council of a county may by by-law abandon the whole or any part of a toll road owned by the corporation of the county or of any other road owned by it, whether the road is situate wholly within the county or partly within it and partly within an adjoining county.

Abandonment by county of roads.

(2) Forthwith after the passing of the by-law the clerk shall transmit by registered post to the clerk of every local municipality through or along or on the border of which the road runs a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Clerk to transmit copies of by-law.

(3) The by-law shall not take effect unless or until it is approved by the Municipal Board, nor shall it take effect as to the part of the road lying within or along or on the border of a local municipality whose council does not by by-law assent to the by-law.

Approval of Municipal Board.

(4) From and after the taking effect of the by-law the council of a municipality within which any part of the road so abandoned lies shall have jurisdiction over that part of it which lies within the municipality, and where any part of a road so abandoned lies between or on the border of two or more local municipalities the councils of such municipalities shall have joint jurisdiction over that part of it.

Jurisdiction after abandonment.

(5) Nothing in this section shall extend or apply to a bridge which under the provisions of this Act is to be maintained wholly or partly by the corporation of the county. 3-4 Geo. V. c. 43, s. 448.

Exception.

449.—(1) A bridge of a greater length than 300 feet in a town having an equalized assessment of less than \$1,000, 000 or in a township may, on the application of the council of such town or township, be declared to be a county bridge where

Bridges over 300 ft. in length in townships and certain towns may be declared county bridges.

(a) it is used by the inhabitants of other municipalities;

(b) it is situate on an important highway affording means of communication to several municipalities; and

(c) on account of its length, and for the reasons mentioned in clauses (a) and (b), it is unjust that

the burden of maintaining and repairing it should rest upon the corporation of the town or township.

Order of
Judge.

(2) An order declaring the bridge to be a county bridge may be made by a judge of the County Court of the county in which it is situate on the application of the council of the town or township.

Notice of
application.

(3) Notice of the application shall be served on the corporation of the county at least thirty days before the day on which it is to be made.

Hearing.

(4) Each corporation shall be entitled to be represented by counsel on the hearing of the application, and the evidence may, if the judge sees fit, and shall if either party so requests, be given under oath.

Power of
judge.

(5) If the judge is of opinion that for the reasons mentioned in subsection 1 the bridge should be declared to be a county bridge he shall by his order so declare, and in that case he shall determine whether the expense of maintaining and repairing the bridge shall be borne by the corporation of the county or partly by it and partly by the corporation of the town or township, and if he determines that it should be borne partly by each he shall fix the proportions in which the expense is to be so borne, and his declaration and determination shall be embodied in the order.

Registration
of order.

(6) If the order declares the bridge to be a county bridge it shall be registered in the registry office of the registry division in which the bridge is situate.

Appeal.

(7) An appeal shall lie from the order of the judge to a Divisional Court, and the proceedings upon and incidental to the appeal shall be the same as in the case of an appeal from a Judge of that court sitting in court.

Registration
of order of
divisional
court.

(8) If the order is reversed or varied by the order of the Divisional Court, or if an order declaring the bridge to be a county bridge is made by the Divisional Court, the order of that Court shall be registered as provided by subsection 6.

Effect of
order after
registration.

(9) Where the order of the judge of the County Court declares the bridge to be a county bridge, except where it is reversed, and subject to any variation of it on appeal, from and after the registration of the order, or where the order has been reversed and an order declaring the bridge to be a county bridge has been made by the Divisional Court from and after the registration of the order of the Divisional Court, the bridge shall be a county bridge.

Payment to
county of
proportion
of maintain-
ance.

(10) Whenever any expenditure is made by the corporation of the county in maintaining or repairing the bridge a proportion of which the corporation of the town or township is by the order required to bear that proportion of the

expenditure shall be payable by the last named corporation to the corporation of the county on demand.

(11) Where the application is dismissed, either by the order of the judge of the County Court or by the order of the Divisional Court, a new application shall not be made until five years have elapsed from the date of the order, and any new application thereafter made may be dealt with without regard to the former order, and the preceding subsections shall apply *mutatis mutandis* to the application. When new application may be made.

(12) In the case provided for by this section the councils of the town or township and the council of the county may at any time enter into an agreement as to the proportions in which the cost of maintaining the bridge and keeping it in repair shall be borne by their respective corporations. Power to agree as to maintenance.

(13) The agreement shall provide that the bridge shall thereafter or after a day to be named be under the exclusive jurisdiction of the council of the county or remain under the jurisdiction of the council of the town or township. What agreement to provide.

(14) The terms of the agreement shall be embodied in an order of the judge of the County Court which may be made upon the application of either corporation, and the order so made shall supersede any former order made by him. Order of judge embodying agreement.

(15) If the agreement provides that the bridge is to come under the exclusive jurisdiction of the council of the county the order made under the next preceding subsection shall so declare.

(16) The order made under subsection 14 shall be registered as provided by subsection 6, and shall have the same effect as an order upon an application made under subsection 2, but the order shall not be subject to appeal. 3-4 Geo. V. c. 43, s. 449. Registration of order.

450. The council of a county which assumes, as a county road or bridge, any highway or bridge within a township, shall with as little delay as reasonably may be, and at the expense of the county cause the highway to be graded and drained and gravelled, macadamized or surfaced or paved with other permanent material, or the bridge to be built in a good and substantial manner and shall maintain and keep the same in repair. 3-4 Geo. V. c. 43, s. 450. Highways assumed by county to be planked, gravelled, etc.

451. The council of the county shall cause to be built and maintained at the expense of the corporation of the county the bridges mentioned in clauses (b) and (c) of section 436. 3-4 Geo. V. c. 43, s. 451. County to build and maintain certain bridges.

452. Where a river, stream, pond or lake forms or crosses a boundary line between two or more counties, it shall be the duty of the corporations of the counties, and where it forms or crosses a boundary line between a county and a city or a Maintenance of bridges on county boundary lines.

separated town, it shall be the duty of the corporations of the county and the city or separated town to erect and maintain bridges over such river, stream, pond or lake. 3-4 Geo. V. c. 43, s. 452.

Maintenance of boundary lines.

453.—(1) Boundary lines between local municipalities, including those which also form county boundary lines, shall be maintained by the corporations of such municipalities, and they shall also erect and maintain all necessary bridges on such boundary lines.

Exceptions.

(2) Subsection 1 shall not apply to boundary lines assumed by the council of the county or to such bridges as are under the provisions of this Act to be erected or maintained by another corporation. 3-4 Geo. V. c. 43, s. 453.

Local municipalities to erect and maintain certain bridges.

454. Where the council of a county passes a by-law under subsection 2 of section 436 it shall be the duty of the councils of the local municipalities to erect and maintain all necessary bridges from the erection and maintenance of which the council of the county is relieved by the by-law. 3-4 Geo. V. c. 43, s. 454.

Maintenance of boundary lines and bridges in provisional judicial district.

455. All boundary lines and all bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between two or more local municipalities in a provisional judicial district shall be erected and maintained by the corporations of such municipalities and their councils shall have joint jurisdiction over them; and if the councils fail to agree as to the proportion of the expense to be borne by each corporation the same shall be determined by arbitration. 3-4 Geo. V. c. 43, s. 455.

Driftwood in Streams.

Keeping rivers free from driftwood, etc.

456.—(1) Where a river or a stream forms a boundary line between two or more municipalities in a county, the corporation of the county shall keep it free from all accumulations of driftwood or fallen timber.

What corporations to perform the work and apportionment of expense.

(2) Where the river or stream forms a boundary line between two or more counties, the duty mentioned in subsection 1 shall be performed by the corporations of the counties, and where the river or stream forms the boundary line between a county and a city or separated town, shall be performed by the corporation of the county and the corporation of the city or separated town, and in case of failure to agree in either case, as to the share or proportion of the expense incurred in performing the duty to be borne by them respectively, the same shall be determined by arbitration. 3-4 Geo. V. c. 43, s. 456.

457.—(1) Where a stream or creek is cleared of all logs, brush or other obstructions to the boundary line between a township and an adjoining township into which the stream or creek flows, the council of the township in which the stream or creek has been so cleared may give notice in writing to the corporation of such adjoining township requesting its council to clear such stream or creek through the municipality.

Keeping stream free from logs, brush, etc., in townships.

(2) It shall be the duty of such last mentioned corporation, within six months after the service of the notice, to enforce the removal of all obstructions in such stream or creek within the municipality to the satisfaction of any person whom the council of the county in which the municipality whose council gave the notice is situate, appoints to inspect the same.

Notice requiring other township to remove obstructions.

(3) If the corporation receiving the notice neglects to perform such duty, and by reason of its neglect any highway or bridge in either of the townships becomes out of repair, the corporation in default, and that corporation only, shall be responsible for the damages sustained by any person by reason of such want of repair. 3-4 Geo. V. c. 43, s. 457.

Effect of failure to perform duty.

458. Where, on account of physical difficulties or obstructions existing on a boundary line between municipalities, and in order to obtain a better line of road, a road has been heretofore or is hereafter laid out and opened which does not follow the course of such boundary line throughout, but in some place or places so deviates from it as to lie wholly within one of the municipalities, such road shall nevertheless be deemed to be, for the purposes of this Act, the boundary line between the municipalities; and a river, stream, pond or lake which crosses it where it so deviates shall be deemed to be a river, stream, pond or lake crossing a boundary line within the meaning of this Act. 3-4 Geo. V. c. 43, s. 458.

Deviations of boundary lines.

459. Every iron, steel, concrete or stone bridge constructed by the corporation of a county shall be built in accordance with specifications approved by the engineer of highways of the Department of Public Works. 3-4 Geo. V. c. 43, s. 459.

Specifications for certain bridges.

460.—(1) Every highway and every bridge shall be kept in repair by the corporation the council of which has jurisdiction over it, or upon which the duty of repairing it is imposed by this Act, and in case of default, the corporation shall be liable for all damages sustained by any person by reason of such default.

Liability for repair of public roads, etc.

(2) No action shall be brought against a corporation for the recovery of damages occasioned by such default, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time when the damages were sustained.

Limitation of actions.

Snow or ice
on sidewalks.

(3) Except in case of gross negligence a corporation shall not be liable for a personal injury caused by snow or ice upon a sidewalk.

Notice of
action.

(4) No action shall be brought for the recovery of the damages mentioned in subsection 1 unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered post to the head or the clerk of the corporation, in the case of a county or township within thirty days, and in the case of an urban municipality within seven days after the happening of the injury, nor unless where the claim is against two or more corporations jointly liable for the repair of the highway or bridge, the prescribed notice was given to each of them within the prescribed time.

When dis-
pensed with.

(5) In case of the death of the person injured, failure to give the notice shall not be a bar to the action, and, except where the injury was caused by snow or ice upon a sidewalk, failure to give or insufficiency of the notice shall not be a bar to the action, if the court or judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the corporation was not thereby prejudiced in its defence.

To what
roads applic-
able.

(6) This section shall not apply to a road, street or highway laid out or to a bridge built by a private person or by a body corporate until it is established by by-law of the council or otherwise assumed for public use by the corporation.

When
Corporation
not respon-
sible for acts
of others.

(7) Nothing in this section shall impose upon a corporation any obligation or liability in respect of any act or omission of any person acting in the exercise of any power or authority conferred upon him by law, and over which the corporation had no control, unless the corporation was a party to the act or omission, or the authority under which such person acted was a by-law, resolution or license of its council.

When cor-
poration not
liable for
damages.

(8) A corporation shall not be liable for damages under this section unless the person claiming the damages has suffered by reason of the default of the corporation a particular loss or damage beyond what is suffered by him in common with all other persons affected by the want of repair.

Relief from
obligation to
rebuild.

(9) Where a bridge which it is the duty of a corporation to repair is destroyed or so damaged that it is necessary to rebuild it the Municipal Board may, upon the application of the corporation, relieve it from the obligation to rebuild the bridge, if the Board is satisfied that it is no longer required for the public convenience or that the re-building of it would entail a larger expenditure than would be reasonable, having regard to the use that would be made of the bridge if it were rebuilt.

Conditions
of granting
relief.

(10) The relief may be granted on such terms and conditions as the Board may deem just, and such notice of the application shall be given as the Board may direct.

(11) The next preceding two subsections shall not affect the costs of any pending action. 3-4 Geo. V. c. 43, s. 460.

Costs of pending actions.

461. A corporation shall, in the absence of an agreement to the contrary, keep in repair all crossings, sewers, culverts and approaches, sidewalks and other works made or constructed by it or by any person with the permission of its council, upon any toll road in or passing through the municipality, and in case of default shall be liable as in the case provided for by section 460. 3-4 Geo. V. c. 43, s. 461.

Repair of crossings, etc., made by leave of municipality on toll roads.

462.—(1) Where two or more corporations are jointly liable for keeping in repair a highway or bridge, there shall be contribution between them as to the damages sustained by any person by reason of their default in so doing.

Apportionment of damages.

(2) Any action by any such person shall be brought against all such corporations, and any of them may require that the proportions in which such damages and the costs of the action are to be borne by them shall be determined in the action.

Action to be against all corporations.

(3) In settling such proportions, either in the action or otherwise, regard shall be had to the extent to which each corporation was responsible, either primarily or otherwise, for the act or omission by reason of which the damages became payable or are recoverable and the damages and costs shall be apportioned between them accordingly. 3-4 Geo. V. c. 43, s. 462.

What to be taken into account.

463.—(1) Where an action may be brought against a corporation by a person who has sustained damages by reason of its default in keeping in repair a highway or bridge, no action shall be brought by him in respect of it or to recover such damages or any part of them against any member of the council or officer or employee of the corporation personally, but the remedy therefor shall be against the corporation.

Members of council and employees not liable for non-repair of highways.

(2) A mere contractor with the corporation or an officer or employee who is such contractor, by reason of whose act or omission the damages were caused, shall not be deemed an employee within the meaning of subsection 1. 3-4 Geo. V. c. 43, s. 463.

Contractors not deemed employees.

464.—(1) Where an action is brought to recover damages sustained by reason of any obstruction, excavation or opening in or near a highway or bridge placed, made, left or maintained by any person other than the corporation or a servant or agent of the corporation, or by reason of any negligent or wrongful act or omission of any person other than the corporation or a servant or agent of the corporation, the corporation shall have a remedy over against such other person for, and may enforce payment of the damages and costs which are recovered against the corporation.

Remedy over, for damages caused by non-repair against persons causing same.

Remedy over
in same
action.

(2) The corporation shall be entitled to such remedy over in the same action, if the other person is a party to the action, and it is established in the action as against him that the damages were sustained by reason of an obstruction, excavation, or opening so placed, made, left or maintained by him.

Adding
party de-
fendant.

(3) The corporation may in such action have the other person, if not already a defendant, added as a party defendant or third party for the purposes of the remedy over; and such person may defend the action as well against the plaintiff's claim as against the claim of the corporation.

Where
person caus-
ing damage
has not
been made
a party.

(4) If such person is not a party defendant, or is not added as a party defendant or third party, or if the corporation has paid the damages before an action is brought to recover the same, or before a recovery thereof in an action against the corporation, the corporation shall have the remedy over by action against such person, but he shall be deemed to admit the validity of the judgment obtained against the corporation only where a notice has been served on him, pursuant to Rules of Court, or where he has admitted or is estopped from denying the validity of such judgment.

When a
fresh action
is necessary.

(5) Where such notice has been served, and there has been no such admission or estoppel, and such person has not been made a party defendant or third party to the action against the corporation, or where the damages have been paid without action or without recovery of judgment against the corporation, the liability of the corporation for such damages, and the fact that the damages were sustained under such circumstances as to entitle the corporation to the remedy over, must be established in the action against such person to entitle the corporation to recover in the action. 3-4 Geo. V. c. 43, s. 464.

Determina-
tion of dis-
putes as to
duty to erect
and maintain
bridge or
repair high-
way.

465.—(1) Whenever there is a dispute between the councils of any two or more corporations as to the corporation on which the obligation to build and maintain or to build or maintain a bridge or to keep in repair a highway rests, the Supreme Court may upon the application of any or either of the corporations determine the matter in dispute on an originating motion; or the court, if of opinion that the matter in dispute cannot satisfactorily be determined on an originating motion, or that for any other reason it ought not to be so determined, may direct that an action may be brought or that an issue be tried for the purpose of determining the matter in dispute, and the Court may in either case compel by mandamus the performance of the obligation by the corporation upon which it is found to rest.

Disputes as
to apportion-
ment of cost
of erecting
or main-
taining.

(2) Except in the cases provided for by section 468, where the dispute is as to the proportions in which the corporations should contribute to the cost of erecting and maintaining or of erecting or maintaining a bridge or of keeping

in repair a highway, the matter in dispute shall be determined by arbitration. 3-4 Geo. V. c. 43, s. 465.

466.—(1) Where an allowance for road was not reserved in the original survey on a township boundary or part of it, the councils of the townships may establish and lay out a highway on such boundary or part of it. Laying out highway where no original allowance.

(2) The councils of any or either of the municipalities may pass a by-law for establishing and laying out such a highway and for acquiring the land requisite for the one-half of it which lies within the limits of its municipality. Passing by-law for.

(3) The clerk shall within four days after the passing of the by-law transmit by registered post to the clerk of each of the other townships a copy of the by-law certified under his hand and the seal of the corporation to be a true copy. Copy of by-law to be sent to other townships.

(4) If the other council or councils do not within six months after such notice pass a by-law or by-laws in similar terms, the council by which the by-law was passed may require the question of establishing and laying out the proposed highway to be determined by arbitration. Arbitration.

(5) The arbitrators shall determine whether or not the proposed highway shall be established and laid out, and if they determine that it shall be established and laid out they shall also determine in what proportions the cost of the site of it shall be borne by each of the corporations. Power of arbitrators.

(6) If it is determined by the arbitrators that the proposed highway shall be established and laid out, the other councils shall forthwith after notice of the award pass the necessary by-laws for establishing and laying out the proposed highway and for acquiring the land requisite for the one-half of it which will lie within the limits of their respective municipalities, and for otherwise carrying out the provisions of the award, and shall proceed with all reasonable despatch to carry into effect the provisions of the by-law. Duties of other townships when arbitrators determine that highway should be laid out.

(7) If it is determined by the arbitrators that the proposed highway shall not be established and laid out, no further proceedings shall be taken under this section within two years from the date of the award or within such time not exceeding in all four years, as the arbitrators may by their award determine. 3-4 Geo. V. c. 43, s. 466. Effect of determination against laying out highway.

467.—(1) Where a highway or bridge is under the joint jurisdiction of the councils of two or more municipalities and they are unable to agree as to any action which one or more of them desire to be taken in the exercise of such joint jurisdiction, any of them may require that the matter in dispute shall be determined by arbitration, and in that case shall prepare a draft by-law for carrying into effect what it is de- Disputes as to bridges or highway to be settled by arbitration.

sired shall be done, and serve a copy of it on the clerk of the other municipalities with a notice that it is its desire that such a by-law shall be passed.

Award.

(2) If it is determined by the arbitrators that what is proposed ought to be done, they shall by their award so direct, and in that case each council shall forthwith after notice of the award pass a by-law in accordance with the draft by-law and shall, without unnecessary delay, do all things which on its part are necessary for carrying into effect the objects of the by-law. 3-4 Geo. V. c. 43, s. 467.

Determina-
tion by
county coun-
cil of dis-
putes as to
opening or
maintaining
township
boundary
lines.

468.—(1) Where the councils of the townships having joint jurisdiction over a township boundary line fail to agree as to the character of the work to be done in opening, maintaining or repairing it, or as to the proportions in which the cost of the work is to be borne by the corporations of the townships respectively, any or either of such councils may apply to the council of the county to determine the matters in dispute.

Enforcement
by county
of opening
up or repair
on petition of
ratepayers.

(2) Where the township councils having the joint jurisdiction over it neglect or refuse to open up and make, maintain and keep in repair any such boundary line, a majority of the ratepayers resident on land abutting on it may apply to the council of the county to enforce the opening up and the making, maintaining and keeping in repair of such boundary line.

What mat-
ters to be
determined
by county
council.

(3) The application shall be by petition and the council of the county after notice to all the corporations interested and after hearing them and the petitioning ratepayers, if the petition is by ratepayers, or such of them as desire to be heard, shall determine in the case provided for by subsection 1, what work shall be done and the proportions in which the cost of it shall be borne by the corporations of the townships respectively, and in the case provided for by subsection 2, whether the boundary line shall be opened up and the proportions in which the corporations of the townships shall respectively bear the cost of opening up, making, maintaining and keeping in repair the boundary line, and in either case may direct that the statute labour or part of it shall be applied by each of the corporations for such purposes.

Appoint-
ment of
commissioners
to enforce
order.

(4) The determination and direction of the council of the county shall be embodied in an order or resolution, and the council shall appoint one or more commissioners to execute and enforce any direction so made.

Townships
to have op-
portunity
of doing
the work.

(5) If the councils of the townships intimate to the council of the county or to the commissioners their intention to proceed with the work directed to be done and to conform to the direction of the council of the county, the commissioners shall delay proceedings to carry out the work directed

to be done for a reasonable time to enable the township councils to do it, but if the work is not proceeded with with such despatch as the commissioners deem necessary they shall themselves complete the work.

(6) The cost of any work done by the commissioners shall be by them apportioned between the corporations of the townships in accordance with the order or resolution of the council of the county, and the commissioners shall certify to the treasurer of the county the amount payable by each of such corporations, and the treasurer shall retain the same out of any money in his hands belonging to the corporation, but if there is not in the hands of the treasurer any such money or not sufficient to pay the amount payable by the corporation, the amount payable or the amount of the deficiency, as the case may be, shall be added to the county rate payable by the corporation in default.

Apportionment of and collection of cost of work of commissioners.

(7) This section shall not apply to a township boundary line which is also a county boundary line. 3-4 Geo. V. c. 43, s. 468.

County boundaries not affected.

469. Where the councils of the townships having joint jurisdiction over a county boundary line are unable to agree as to

Determination by Municipal Board of disputes re deviation of county boundary lines.

(a) the necessity for a deviation of the road from the boundary line, or

(b) the location of the deviation, or

(c) the use of an existing highway in lieu of a deviation, or

(d) the proportions in which the cost of opening, making and maintaining the deviation or the existing highway to be used in lieu of a deviation is to be borne,

any of the councils may apply to the Municipal Board to determine the matter in dispute, and the Board or any member of it, after notice to the corporations interested and hearing such of them as desire to be heard, shall determine the matter in dispute and may make such order as may be deemed just, and such order shall be final and not subject to appeal. 3-4 Geo. V. c. 43, s. 469.

470.—(1) The Ontario Motor League may at its own expense and subject to such regulations as the council of the municipality may prescribe, erect and maintain guide posts at road intersections and mile posts on the highways to indicate distances and danger signals at hills which may be deemed to be dangerous or unsafe for travellers.

Power of Ontario Motor League to erect guide and mile posts, etc.

(2) Every such guide post, mile post and danger signal shall be so placed as not to obstruct the highway or to endanger

How same to be erected.

ger the safety of travellers, and nothing shall appear on or be affixed or attached to it but a notice indicating the purpose which the guide post, mile post or danger signal is designed to serve.

Penalty.

(3) Every person who contravenes any of the provisions of subsection 2 shall incur a penalty of \$5 for every such contravention.

Defacing posts erected.

(4) No person shall cut or throw down or injure or deface any such guide post, mile post or danger signal, and for every contravention of this subsection the person offending shall incur a penalty not exceeding \$50. 3-4 Geo. V. c. 43, s. 470.

Powers of C. W. A. as to erection of guide posts, etc.

471. The Canadian Wheelman's Association of the Dominion of Canada shall have the like power as is by the next preceding section conferred on the Ontario Motor League, and all the provisions of that section shall apply to guide posts, mile posts and danger signals erected or maintained by the Association; but where either the League or the Association has exercised the powers conferred upon it upon any part of a highway the other shall not have the right to exercise its powers thereon. 3-4 Geo. V. c. 43, s. 471.

Establishing, widening, stopping up, etc., highways, laying out boulevards, etc.

472.—(1) The council of every municipality may pass by-laws,

- (a) for establishing and laying out highways;
- (b) for widening, altering or diverting any highway or part of a highway;
- (c) for stopping up any highway or part of a highway and for leasing or selling the soil and freehold of a stopped up highway or part of a highway;
- (d) for setting apart and laying out such parts as may be deemed expedient of any highway for the purpose of carriage ways, boulevards and sidewalks, and for beautifying the same, and making regulations for their protection;
- (e) for permitting subways for cattle under and bridges for cattle over any highway.

Exceptions as to exercise of power.

(2) Nothing in subsection 1 shall authorize a council to interfere with any public road or bridge vested in the Crown in right of Ontario or in any public Department, Board or officer of Ontario.

Approval of Lieutenant-Governor to by-law.

(3) A by-law passed under the authority of clause (b) or clause (c) of subsection 1 in respect of an allowance for road reserved in the original survey along or leading to the bank of any river or stream or on the shore of any lake or other water shall not take effect until it has been approved by the Lieutenant-Governor in Council.

(4) The powers conferred by subsection 1 shall not be exercised without the consent of the Governor-General in Council in respect of,

Approval of
Governor-
General
to by-law.

- (a) any street, lane or thoroughfare made or laid out by His Majesty's Ordnance or the Principal Secretary of State in whom the Ordnance estates became vested under the Act of the late Province of Canada passed in the 19th year of the reign of Her late Majesty Queen Victoria, Chapter 45, or under Chapter 24 of the Consolidated Statutes of Canada, or made or laid out by the Government of Canada;
- (b) any land owned by the Crown in right of the Dominion of Canada;
- (c) any bridge, wharf, dock, quay or other work vested in the Crown in right of the Dominion of Canada;

or so as to interfere with any land reserved for military purposes or with the integrity of the public defences, and the consent of the Governor-General in Council shall be recited in the by-law, but the by-law shall not be quashed or open to question because of the omission to recite it if the consent has been in fact given.

(5) The powers conferred by clause (c) of subsection 1 shall not be exercised by the council of a county in respect of a highway or part of a highway within the limits of a city, town or village in or adjoining the county.

Limitation
of power of
county.

(6) A by-law of the council of a township, passed under the authority conferred by clause (c) of subsection 1, in the case of a township in unorganized territory, shall not have any force unless and until approved by a judge of the District Court of the district in which the township is situated, and in other cases unless and until confirmed by a by-law of the council of the county in which the township is situated passed at an ordinary meeting of the council held not sooner than three months or later than one year after the passing of the by-law of the council of the township. 3-4 Geo. V. c. 43, s. 472.

Approval of
district judge
or county
council
to township
by-law.

473.—(1) A by-law shall not be passed for stopping up, altering or diverting any highway or part of a highway if the effect of the by-law will be to deprive any person of the means of ingress and egress to and from his land or place of residence over such highway or part of it unless in addition to making compensation to such person, as provided by this Act, another convenient road or way of access to his land or place of residence is provided.

Right of
ingress and
egress not
to be taken
away by
closing road.

By law,
when to
take effect.

(2) The by-law shall not take effect until the sufficiency of such road or way of access has been agreed upon or unless and until, if not agreed upon, its sufficiency has been determined by arbitration as hereinafter mentioned.

Arbitration
to determine
sufficiency of
road.

(3) If such person disputes the sufficiency of the road or way of access provided the sufficiency of it shall be determined by arbitration under this Act, and if the amount of compensation is also not agreed upon both matters shall be determined by one and the same arbitration.

By-law void
if road
insufficient.

(4) If the arbitrators determine that the road or way of access provided is insufficient they may by their award determine what road or way of access should be provided, and in that case, unless such last mentioned road or way of access is provided, the by-law shall be void and the corporation shall pay the costs of the arbitration and award. 3-4 Geo. V. c. 43, s. 473.

Possession
of unopened
road allow-
ance.

474.—(1) A person in possession of and having enclosed with a lawful fence that part of an original allowance for road upon which his land abuts which has not been opened for public use by reason of another road being used in lieu of it or of another road parallel or near to it having been established by law in lieu of it shall as against every person except the corporation the council of which has jurisdiction over the allowance for road be deemed to be legally possessed of such part until a by-law has been passed by such council for opening it.

Notice of
by-law to be
given.

(2) No such by-law shall be passed until notice in writing of the intention to pass it has been given to the person in possession at least eight days before the meeting of the council at which the by-law is to be taken into consideration. 3-4 Geo. V. c. 43, s. 474.

Publication
of by-law, &
etc.

475.—(1) Before passing a by-law for stopping up, altering, widening, diverting, selling or leasing a highway or for establishing or laying out a highway,

(a) notice of the proposed by-law shall be published at least once a week for four successive weeks, and in the case of a village or township shall be posted up for at least one month in six of the most public places in the immediate neighbourhood of the highway or proposed highway, and

(b) the council shall hear in person or by his counsel, solicitor or agent any person who claims that his land will be prejudicially affected by the by-law and who applies to be heard.

Notices.

(2) The clerk shall give the notices upon payment by the applicant, if any, for the by-law, of the reasonable expenses to be incurred in so doing. 3-4 Geo. V. c. 43, s. 475.

476. Where the owners of and other persons interested in the land required to be taken for the highway consent in writing to the passing of the by-law for establishing and laying it out, or where such land has been acquired by the corporation, section 475 shall not apply to the by-law. 3-4 Geo. V. c. 43, s. 476. When publication of by-law not required.

477.—(1) Where an allowance for a sideline road between lots in a double front concession in a township was so run in the original survey that the line in the front half of the concession does not meet the line in the rear half, the council of the township may open and lay out a road to connect the ends of such lines where they do not so meet. Side lines in double front concessions.

(2) The by-law shall provide that the road shall be opened and laid out in accordance with a survey to be made by an Ontario Land Surveyor named in the by-law. Term of by-law.

(3) A judge of the County or District Court of the county or district in which the township is situate on the application of any person over whose land the connecting road will pass who objects to the surveyor appointed by the by-law may appoint another Ontario Land Surveyor in the place of the one so appointed. Appointment of another surveyor by Judge.

(4) The application shall be made within one month after the service of the copy of the by-law on the applicant and at least five days' notice of the time when and the place where it will be heard by the judge shall be served upon every other person over whose land the connecting road will pass and upon the clerk of the municipality. Application for appointment.

(5) The surveyor appointed by the by-law or, if another is appointed by the judge in his place, the surveyor so appointed shall determine the compensation to be paid to the persons whose lands are taken for the connecting road, and the amount so determined shall be paid to them by the corporation of the township. Compensation, determination as to.

(6) The determination of the surveyor as to the compensation shall be final. 3-4 Geo. V. c. 43, s. 477. Determination final.

478.—(1) Where the council of a municipality desiring to open an original allowance for road has by mistake opened a road which was intended to be, but is not wholly or partly, upon such allowance the land occupied by the road as so opened shall be deemed to have been expropriated under a by-law of the corporation, and no person on whose land such road or any part of it was opened shall be entitled to bring or maintain an action for or in respect of what was done or to recover possession of his land, but he shall be entitled to compensation under and in accordance with the provisions of this Act as for land expropriated under the powers conferred by this Act. Mistakes in opening road allowances.

When right
to compensa-
tion barred.

(2) The right to compensation shall be forever barred if the compensation is not claimed within one year after the land was first taken possession of by the corporation. 3-4 Geo. V. c. 43, s. 478.

Width of
highways.

479.—(1) No municipal council or owner of land shall lay out any highway less than 66 feet in width or, except in the case of a city or town, more than 100 feet in width.

Exception.

(2) Subsection 1 shall not apply to a township in unorganized territory, and a highway less than 66 feet in width may be laid out by the council of any such township subject to and in accordance with the regulations of the Department of Lands, Forests and Mines.

Assent of
Council or
Judge
required.

(3) No highway shall be laid out in any municipality by any owner of land without the sanction of the council of the municipality or if its sanction is refused, without the approval of a judge of the County or District Court of the county or district in which the land lies, given after notice to the corporation. 3-4 Geo. V. c. 43, s. 479.

Dwelling
houses on
narrow
streets.

480. The council of an urban municipality may pass by-laws for regulating the erection or occupation of dwelling houses on narrow streets, lanes or alleys or in crowded or unsanitary districts. 3-4 Geo. V. c. 43, s. 480.

Power to
regulate and
prohibit
erection of
dwelling
houses.

481.—(1) The council of a city having a population of not less than 50,000 may pass by-laws for

- (a) prohibiting the erection or occupation of dwelling houses on highways, lanes or alleys of less width than that prescribed by the by-law;
- (b) prescribing the minimum area of vacant land which shall be attached to and used with any dwelling house thereafter erected, as the court-yard or curtilage of it;
- (c) regulating the manner in which buildings intended to be occupied as dwelling houses are to be constructed within the municipality or within any defined area of it;
- (d) prohibiting the erection of dwelling houses or the alteration of other buildings for the purpose of adapting them for use as dwelling houses, if the same front on a highway less than 40 feet in width, unless the street has been established as a highway by by-law of the council or otherwise assumed for public use by the corporation.

Publication
of by-law.

(2) A by-law for any of the purposes mentioned in subsection 1 before the final passing of it shall be published in full twice in each week for four consecutive weeks in two

newspapers published in the city with a notice appended thereto, stating the date on which the proposed by-law will be taken into consideration by the council. 3-4 Geo. V. c. 43, s. 481.

482. By-laws may be passed—

(1) By the council of every municipality for granting aid to the corporation of any immediately adjoining municipality towards opening, widening, maintaining or improving any highway within such municipality or constructing, maintaining or improving any bridge therein. Granting aid for opening or improving, etc., highways.

(2) By the council of every local municipality for granting aid to the corporation of the county in which the municipality is situate towards opening and making any new road on the boundary of the municipality or constructing any new bridge on such boundary. By local municipalities to county.

(3) By the councils of cities and towns for granting aid to the corporation of a township in the county in which the city or town is territorially situate or in an adjoining county towards opening, widening, maintaining or improving any highway in such township which constitutes or is to constitute or forms or is to form part of a highway leading to such city or town, or towards constructing, maintaining or improving any bridge forming or which is to form part of such highway. By cities and towns to township.

(4) By the councils of counties for granting aid towards making, improving or maintaining any county or township boundary line. By counties to towns, villages and townships, etc.

(5) By the councils of counties for granting aid to the corporation of any town, village or township towards,

(a) opening any new highway or constructing any new bridge in the municipality;

(b) opening, widening, maintaining or otherwise improving any highway leading from or passing through the municipality into a county road, or constructing, maintaining or improving any bridge forming, or which is to form, part of such highway.

(6) By the councils of townships,

By townships to county.

(a) for granting aid to the corporation of a county adjoining that in which the township is situate towards opening, widening, maintaining or improving any highway lying between the township and another municipality in the adjoining county, or towards constructing, maintaining or improving any bridge on such highway;

(b) for granting aid for the like purposes to the corporation of the county in which the township is situate in respect of any highway or bridge within the township assumed as a county road or bridge or agreed to be so assumed on condition that such aid shall be granted.

By townships
in unorganized
territory.

(7) By the council of a township in unorganized territory for opening, widening, maintaining or improving any highway or constructing, maintaining or improving any bridge in an adjoining municipality or in a municipality situate in such adjoining municipality or in an adjoining unorganized township or in adjoining unsurveyed territory or for granting aid to any adjoining municipality or to any municipality situate in such adjoining municipality for any of such purposes.

Character of
aid.

(8) The aid may be granted by way of loan or otherwise.
3-4 Geo. V. c. 43, s. 482.

483. By-laws may be passed by the council of every municipality

Boulevards.

1. For setting apart portions of the highways at or near the sides of them for the purpose of boulevards, and for permitting the owners of land abutting on a highway to construct, make and maintain at their own expense boulevards on that part of the highway which may be set apart for that purpose, but not so as unreasonably to confine, impede or incommode public traffic.

Regulations.

2. For regulating the construction, maintenance and protection of such boulevards.

Areas and
openings
under
highways.

3. For permitting the owners of land to make, maintain and use areas under and openings to them in the highways and sidewalks, for prescribing the terms and conditions upon which the same shall be made, maintained and used, and for making such annual or other charge for the privilege conferred by the by-law as the council may deem reasonable.

Annual
charge for.

(a) Such annual or other charge shall be payable and payment of it may be enforced in like manner as taxes are payable and payment of them may be enforced.

Liability of
corporation
for damages.

(b) The corporation shall be liable for any want of repair of the highway which may result from the construction, maintenance and use of any such area or opening, but shall be entitled to the remedy over provided for by section 464 against the person by whose act or omission the want of repair is caused.

Bicycle and
foot paths.

4. For setting apart so much of any highway as the council may deem necessary for the purposes of a bicycle path or of a foot path.

- (a) Any person who rides or drives a horse or other beast of burden or a motor vehicle, wagon, carriage or cart over or along any such path shall incur a penalty of not less than \$1 or more than \$20.

5. For raising money by toll on any highway, bridge or other work to defray the expense of making, maintaining or repairing it. Tolls on highways and bridges.

6. For granting to any person in consideration or part consideration of planking, gravelling or macadamizing a highway, or of building a bridge, the tolls fixed by by-law to be levied on the work for a period of not more than twenty-one years after the work has been completed, and after such completion has been declared by a by-law of the council. Granting right to take tolls.

- (a) The grantee of the tolls shall, during such period, maintain and keep in repair the highway or bridge.

7. Subject to the rights of a Crown timber licensee under *The Crown Timber Act*, for preserving or selling the timber or trees on any original allowance for road. Selling timber on road allowance. Rev. Stat. c. 29.

8. For making regulations as to pits, precipices and deep waters and other places dangerous to travellers. Regulations re pits, precipices, etc.

9. For acquiring either alone or jointly with the corporation of another municipality such land in either municipality as may be deemed necessary for procuring therefrom stone or gravel for use in making, maintaining or repairing the highways under the jurisdiction of the council or councils. Stone and gravel pits.

10. For entering upon and searching for and taking from land within the municipality, or with the consent of the council of an adjacent municipality expressed by by-law or resolution from land in such municipality, such timber, gravel, stone or other material as may be necessary for constructing, maintaining and keeping in repair the highways and bridges. Power to enter upon land to take timber, gravel, etc.

- (a) The compensation to be paid to the owners of and other persons interested in the land for the timber, gravel, stone or other material shall be agreed upon or determined by arbitration before the power to take it is exercised. Compensation—how determined.

- (b) The compensation may be a lump sum for the privilege of taking as much timber, stone, gravel or other material as may be required, or a sum determined by the quantity taken, or a price by the cubic yard or otherwise for what may be taken, as may be agreed on or be determined by the arbitrators.

- (c) Where it is necessary in the exercise of any of the powers conferred by the by-law to pass through or over the land of another person, the corporation may do so as occasion may require, doing no unnecessary damage, but before doing so the compensation to be paid for the exercise of such power shall be agreed upon or determined by arbitration.

Purchasing
or renting
road making
machinery.

11. For purchasing conditionally or otherwise, or for renting for a term of years or otherwise, roadmaking machinery and appliances for the purposes of the corporation, and for borrowing money for the purpose of paying the purchase price for any period not exceeding five years and for issuing debentures for the money so borrowed, or for issuing to the vendor debentures payable within that period in payment of the purchase money.

- (a) The debentures issued under this paragraph shall be on the instalment plan. 3-4 Geo. V. c. 43, s. 483.

Taking stock
in bridge
company.

484. The council of every municipality may pass by-laws for subscribing for any number of shares in the capital stock of or for lending money to or guaranteeing the payment of any money borrowed by a bridge company incorporated for the purpose of erecting and maintaining any bridge within, or partly within, the municipality or between it and another municipality. 3-4 Geo. V. c. 43, s. 484.

Power to
agree with
owners of
toll road
as to the
expenditure
of statute
labour
thereon.

485. The council of every municipality through or adjoining which any toll road passes may enter into an agreement with the owner of the road to expend on it for a limited number of years such statute labour or sum of money as may be agreed upon and that at the end of the term of years agreed upon such road shall be toll free and shall become the property of the corporation of the municipality in which it is situate. 3-4 Geo. V. c. 43, s. 485.

Joint works
with other
municipali-
ties.

486. The council of a local municipality may pass by-laws for entering into and performing any agreement with any other council in the same county for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the council. 3-4 Geo. V. c. 43, s. 486.

TREES, PLANTING, PROTECTION AND REMOVAL OF.

487. The council of every municipality may pass by-laws.

Removal of
trees.

1. For causing any tree, planted or growing on any highway, square, lane or other public communication, to be removed if and when deemed necessary for any purpose of public improvement; but

(a) The owner of the adjacent land shall be entitled to ten days' notice of the intention of the council to remove such tree, and to be recompensed for his trouble in planting and protecting it, but neither he nor the occupant of the land shall be entitled to any further or other compensation.

(b) Neither the owner of the adjacent land nor any pathmaster or other public officer, nor any other person, shall remove or cut down or injure any such tree without the express permission of the council.

2. For planting and preserving shade and ornamental trees Planting trees. upon any highway, and for granting to any person or association of persons money to be expended for such purposes.

3. For prohibiting the injuring or destroying of trees or shrubs on the highways, planted or preserved for shade or ornament. Ornamental trees.

4. For authorizing the park commissioner or any officer appointed for that purpose or a committee of the council to, Authority to plant, trim and cut down, etc., trees.

(a) plant or cause to be planted trees in the highways of the municipality;

(b) trim or cause to be trimmed all trees on private property the branches of which extend over a highway;

(c) cut down or remove or cause to be cut down or removed all decayed trees;

(d) remove or transplant or cause to be removed or transplanted any tree planted or growing in any highway, square, lane or other public communication after 48 hours' notice in writing to the occupant of the land opposite to which the tree is planted or growing, but no live tree, unless within 30 feet of another tree, shall be removed without the consent of such occupant.

(1a) The notice mentioned in clause (d) may be given by leaving it with a grown-up person resident upon the land, or if the land is unoccupied by posting it in a conspicuous place on the land. Service of notice.

(1b) Neither the corporation nor any person acting under the authority of a by-law for the purposes mentioned in this paragraph shall incur any liability by reason of anything done under the authority of the by-law if reasonable care, skill and judgment are exercised in the doing of it, nor shall the corporation be liable to make compensation to the owner or occupant of the land further than as provided by this section. Non-liability for acts done.

General powers not affected.

(1c) Nothing in this paragraph shall limit the powers conferred by paragraphs 1, 2 and 3. 3-4 Geo. V. c. 43, s. 487.

Cutting down trees on either side of highway.

488.—(1) The council of a county or a township may pass by-laws for requiring that on each or on either side of a highway or part of a highway which passes through a wood the trees, except such as are reserved by the owner for ornament or shelter, shall for a space not exceeding 25 feet from the limits of the highway or part of it be cut down and removed by the owner or occupant of the land within a time to be appointed by the by-law, and if he fails to do so authorizing such person as may be named in the by-law to cut down and remove them.

Failure of owner or occupant to cut down, etc.

(2) Where the owner or occupant fails to cut down and remove such trees in accordance with the requirement of the by-law the person named in the by-law for that purpose may cut down and remove them, and the trees may be used for the construction, improvement or repair of any highway or bridge in the road division in which the land is situate or may be sold by him to defray the expenses incurred in carrying out the provisions of the by-law. 3-4 Geo. V. c. 43, s. 488.

Expenditure for works in any county of a union.

489.—(1) The councils of united counties may pass by-laws for raising or borrowing money to be expended exclusively in any one of the counties forming the union.

What members to vote on by-law.

(2) None of the members of the council but those representing local municipalities in the county in which the expenditure is to be made shall vote upon the by-law except in the case of an equality of votes, when the warden shall have the casting vote.

What property assessable for rates.

(3) The sums to be raised by taxation for the purpose of making any such expenditure and the sums required to be raised to pay the principal and interest of any money borrowed for that purpose shall be assessed and levied only upon the rateable property in the county in which the expenditure is to be made.

Debentures, issue of.

(4) Every debenture issued under the authority of the by-law shall be issued as the debenture of the corporation of the united counties, but it shall be stated in the body of it that the payment of the principal and interest is to be provided for by a special rate upon the rateable property in the county in which the expenditure is to be made and upon that property only. 3-4 Geo. V. c. 43, s. 489.

Prizes for best kept roadside, etc.

490. The council of a township may pass by-laws for granting a prize not exceeding \$10 for the best kept roadside, farm front and farm house surroundings, in each public school section in the township, and for prescribing the conditions upon which such prizes may be competed for and awarded. 3-4 Geo. V. c. 43, s. 490.

491. The councils of all municipalities may pass by-laws.

1. For prohibiting or regulating the obstructing, encumbering, injuring or fouling of highways or bridges. Obstruction of highways.

2. For requiring doorsteps, porches or other erections or things projecting into or over any highway to be removed by the owner or occupant of the land in connection with which they exist. Removal of doorsteps, etc.

3. For prohibiting the building or maintaining of fences on any highway or the placing or depositing of firewood or any other thing calculated to obstruct it or to obstruct or interfere with public travel on it, on any highway or bridge, and for requiring the removal of them by the person by whom the same are or were so built, maintained, placed or deposited. Prohibiting building or maintaining fences on highways.

(a) Unless the by-law otherwise provides, a by-law passed under the authority of paragraph 3 shall not extend or apply to a worm fence which is not for more than half its width upon the highway, or to materials to be used for the construction or repair of a highway or bridge, if they do not interfere with the use of it for public travel. Worm fences.

4. For prohibiting the throwing, placing or depositing on any highway or bridge of dirt, filth, glass, hand-bills, paper or other rubbish or refuse, or the carcass of any animal. 3-4 Geo. V. c. 43, s. 491. Prohibiting throwing dirt, glass etc., on highways.

492.—(1) Where a highway for the site of which compensation was paid has heretofore or shall hereafter be established and laid out in place of the whole or any part of an original allowance for road, or where the whole or any part of a highway has heretofore been or shall hereafter be legally stopped up, if the council determines to sell such original allowance or such stopped up highway, the price at which it is to be sold shall be fixed by the council, and the owner of the land which abuts on it shall have the right to purchase the soil and freehold of it at that price. Selling original road allowance.

(2) Where there are more owners than one, each shall have the right to purchase that part of it upon which his land abuts to the middle line of the stopped up highway. Prior right of owners of abutting lands.

(3) If the owner does not exercise his right to purchase within such period as may be fixed by the by-law or by a subsequent by-law, the council may sell the part which he has the right to purchase to any other person at the same or a greater price. 3-4 Geo. V. c. 43, s. 492. Sale by council to other persons.

Where owner of land taken for highway entitled to original road allowance.

493.—(1) Where a highway for the site of which compensation was not paid has been laid out and opened in the place of the whole or any part of an original allowance for road, the owner of the land appropriated for the highway or his successor in title if he owns the land which abuts on such allowance shall be entitled to the soil and freehold of it, and if it has not already been conveyed to him or his predecessor in title, to a conveyance of it.

When more than one owner.

(2) Where the land which so abuts is owned by more persons than one each shall be entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

Where owner of land taken owns no land abutting on allowance.

(3) If the owner of the land appropriated for the highway or his successor in title does not own any land abutting on the allowance and the allowance is sold by the council, he shall be entitled to a part of the purchase money which bears the same proportion to the whole purchase money as the value of the part of the site of the new highway which belonged to him bears to the value of the whole site. 3-4 Geo. V. c. 43, s. 493.

When person in possession entitled to original allowance.

494.—(1) A person in possession of the whole or any part of an original allowance for road in place of which he or any of his predecessors in title has laid out and opened a new road or street without receiving compensation for the site of it shall be entitled to the soil and freehold of such allowance or part of it, and if it has not already been conveyed to him or to his predecessor in title to a conveyance of it.

Where several persons in possession.

(2) Where there are more persons than one in such possession each shall be entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

Requirement as to assumption of road by corporation.

(3) If the road has not been adopted by by-law of the council or otherwise assumed for public use by the corporation this section shall not apply until the new road or street is adopted by by-law of the council, and the council by by-law declares that the original allowance is in its opinion useless to the public.

Application of section.

(4) This section shall apply to roads and to streets hereafter laid out and opened and to such as have been heretofore laid out and opened. 3-4 Geo. V. c. 43, s. 494.

Stone or gravel on roads during sleighing.

495. Stone, gravel or other material shall not be put on any highway for the purpose of rebuilding or repairing it during the winter months so as to interfere with the use of sleighs unless another convenient highway is provided while the rebuilding or repairing is being done. 3-4 Geo. V. c. 43, s. 495.

496.—(1) The Lieutenant-Governor in Council may stop up, alter, widen or divert any highway or part of a highway in a Provisional Judicial District not being within an organized municipality, and may sell or lease the soil and freehold of any such highway or part of a highway which he has stopped up or which in consequence of an alteration or diversion of it no longer forms part of the highway as altered or diverted. Stopping up highways in unorganized territory.

(2) The council of a township in unorganized territory surveyed without road allowances but in which 5 per cent. of the area is reserved for highways, may pass by-laws for opening and making highways where necessary and the provisions of this Act as to compensation for lands taken or injuriously affected by the exercise of the powers conferred by this section shall not apply. 3-4 Geo. V. c. 43, s. 496. Opening up highways where five per cent. reserved

(3) In cases of deviations from road allowances and of roads laid out where there are no road allowances as provided in subsection 2 the corporation shall cause a plan thereof, so far as the same affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the same in the Department of Lands, Forests and Mines. 61 V. c. 26, s. 3. Filing plan of roads in Department of Lands, Forests and Mines.

PART XXII.

PENALTIES AND ENFORCEMENT OF BY-LAWS.

497.—(1) By-laws may be passed by the councils of all municipalities and by Boards of Commissioners of Police for imposing penalties not exceeding \$50, exclusive of costs, upon every person who contravenes any by-law of the council or of the board passed under the authority of this Act. Power to impose penalties.

(2) Every such penalty shall be recoverable under *The Ontario Summary Convictions Act*, all the provisions of which shall apply, except that the imprisonment may be for any term not exceeding six months for the breach of a by law. The Recovery of Rev. Stat. c. 90.

(a) of the council or the Board of Commissioners of Police of a city,

(b) of the council or board of any other municipality for the suppression of houses of ill-fame,

and in all other cases for any term not exceeding twenty-one days. 3-4 Geo. V. c. 43, s. 497.

498.—(1) Except where otherwise expressly provided, the penalties imposed by or under the authority of this Act or under the authority of a by-law of a municipal council or of a Board of Commissioners of Police passed under the authority of this Act, shall be recoverable and may be enforced under *The Ontario Summary Convictions Act*. Recovery of penalties. Rev. Stat. c. 90.

Prosecutions.

(2) Prosecutions for offences against sections 138, 142, 187 or 189 shall be heard and determined by a police magistrate or two justices of the peace, and in other respects the provisions of *The Ontario Summary Convictions Act* shall apply.

Application of penalties.

(3) Where the prosecution is brought by a peace officer or employee of the corporation or of the local board of health, the whole of the penalty shall belong to the corporation, and in other cases shall belong one-half to the corporation and the other one-half to the prosecutor. 3-4 Geo. V. c. 43, s. 498.

Convictions not invalidated for want of proof of by-law.

499.—(1) A conviction for a contravention of any such by-law shall not be quashed for want of proof of the by-law before the convicting Justice, but the Court or a Judge hearing the motion to quash may dispense with such proof or may permit the by-law to be proved by affidavit, or in such other manner as may be deemed proper.

Requirement as to proof.

(2) Nothing in this section shall relieve a prosecutor from the duty of proving the by-law or entitle the Justice to dispense with such proof. 3-4 Geo. V. c. 43, s. 499.

Enforcing performance of things required to be done under by-laws.

500. Where a council has authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by the same or by another by-law direct that in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes. 3-4 Geo. V. c. 43, s. 500.

Power to restrain by action.

501. Where a building is erected or used or land is used in contravention of a by-law passed under the authority of this Act, in addition to any other remedy provided by this Act, and to any penalty imposed by the by-law, such contravention may be restrained by action at the instance of the corporation. 3-4 Geo. V. c. 43, s. 501.

PART XXIII.

POLICE VILLAGES.

Formation of.

Formation of police village.

502.—(1) Under and subject to the provisions and conditions hereinafter mentioned, a locality may be erected into a police village by the council of the county in which it is situate, or if it comprises parts of two or more counties by the council of the county in which the larger or largest part of the locality is situate.

(2) Where a petition signed by a majority of the freeholders of the locality whose names are entered on the last revised assessment roll and by a sufficient number of the resident tenants of the locality whose names are entered on such roll to make up with such freeholders a majority of the whole number of freeholders and tenants whose names are so entered, praying for the erection of the locality into a police village, is presented to the council, the council, if the locality has a population of not less than 150, and an area of not more than 500 acres, may pass a by-law erecting the locality into a police village to take effect from a day to be named in the by-law declaring the name which the police village shall bear and its boundaries, fixing a time and place and naming the returning officer for holding the first election of trustees and fixing a time and place for the first meeting of trustees. 3-4 Geo. V. c. 43, s. 502.

Petition of freeholders and tenants required.

By-law erecting village and fixing date of first election, etc.

503.—(1) When the population of a police village exceeds 500, the council of the county by which it was established may, on petition of two-thirds of the freeholders and tenants of the village, whose names are entered upon the last revised assessment roll, and of the majority of the resident freeholders and tenants of the territory proposed to be added, whose names are entered on the last revised assessment roll of the municipality, may by by-law increase the area of the village by adding to it any adjoining land, but not exceeding 20 acres for each additional 100 of its population over 500.

Annexation of territory to police village.

(2) Land in another county shall not be included in the increased area without the consent of the council of that county. 3-4 Geo. V. c. 43, s. 503.

504. Subsections 2, 3, 5, 6 and 9 of section 13 shall apply to the proceedings under the next two preceding sections, and the population of the locality shall be determined in case of dispute in such manner and by such means as the council shall determine. 3-4 Geo. V. c. 43, s. 504.

Application of proceedings as to incorporation of village.

Trustees—Election of, etc.

505.—(1) There shall be three trustees for every police village.

Trustees—number of.

(2) The trustees may contract and may sue and be sued, and may pass by-laws by and in the name of the trustees of the police village of (*naming it*) but they shall not be personally liable upon their contracts. 3-4 Geo. V. c. 43, s. 505.

General powers.

506.—(1) Except where other provision is made in this Part and except as provided by subsections 2 to 6, the provisions of Parts 2, 3 and 4, which are applicable to council-

Application of provisions as to election, etc., of township councillors.

cillors of townships, shall apply *mutatis mutandis* to trustees of police villages.

Appoint-
ment of re-
turning
officer—
nomination
and polling.

Duty of
clerk of
township as
to preparing
voters' list.

(2) The trustees shall appoint the returning officer and the place within the village for holding the nomination and for the polling for every election except the first.

(3) The clerk of every township, a part of which is comprised in the village, not later than the day before that on which the polling is to take place, shall deliver to the returning officer of the village a copy of so much of the voters' list as relates to the village, attested by his declaration in writing as a true copy thereof.

Return of
ballot box.

(4) The return of the ballot box provided for by section 122 shall be made,

(a) where the village lies wholly within the township to the clerk of that township;

(b) where the village comprises parts of two or more townships in the same county to the clerk of that county;

(c) where the village comprises parts of two or more townships in different counties to the clerk of the county in which the larger or largest part of the village is situate.

Duties of
clerk on
receiving
ballot box.

(5) The clerk to whom the ballot box is returned shall perform the duties which under sections 126 and 127 are to be performed by the clerk of a municipality.

Qualifica-
tion of
trustee.

(6) No person shall be qualified to be elected a trustee unless he has the prescribed qualification in respect of land situate in the village and resides in or within two miles of the village.

Qualifica-
tion of
elector.

(7) No person shall be qualified to vote at an election of trustees unless he has the prescribed qualification in the village.

First meet-
ing of
trustees.

(8) The first meeting of the trustees after the annual election shall be held at noon on the 3rd Monday in January, or on some day thereafter at noon. 3-4 Geo. V. c. 43, s. 506.

Vacancies—
how filled.

507. If a vacancy occurs in the office of trustee the remaining trustees or trustee shall, by writing, appoint a trustee to fill the vacancy. 3-4 Geo. V. c. 43, s. 507.

Appoint-
ment of
inspecting
trustee.

Require-
ment as to
filing ap-
pointment of
inspecting
trustee,
etc.

508.—(1) The trustees shall, by writing, appoint one of their number to be inspecting trustee.

(2) Forthwith after the making of an appointment under subsection 1 or under section 507, the writing by which the appointment is made shall be filed with the clerk to whom the ballot box is to be returned as provided by subsection 4 of section 506. 3-4 Geo. V. c. 43, s. 508.

509.—(1) The trustees may at any time before the first day of June in any year by a requisition in writing require the council of the township in which the village is situate to cause to be levied, along with the other rates upon the rateable property in the village, such sum as the trustees deem necessary to defray the expenditure of the trustees for the current year.

Requisition on township council to raise sums to meet expenditure.

(2) Where the village comprises parts of two or more townships the requisition shall be made on the council of each township for its proportion of the whole amount to be levied as ascertained in the manner provided by section 510.

Case of village situate in more than one township.

(3) The amount which the trustees may require to be so levied shall not in any year exceed a sum which a rate of one cent in the dollar on the rateable property in the village will provide, but this shall not apply to a rate imposed or to be levied under sections 516, 517, or 519. 3-4 Geo. V. c. 43, s. 509.

Limit of rates.

510.—(1) Where a village comprises parts of two or more townships the proportion of the amount required to be levied in each township shall be determined by the assessors of the townships.

Apportionment of rate among townships by assessors.

(2) Where a police village is hereafter erected, the assessors shall meet forthwith after the election for the purpose of determining and shall determine the proportion to be levied in each township.

Time for meeting of assessors.

(3) Thereafter and in the case of all other police villages the meeting shall be held in every second year.

(4) Except in the case of a newly erected police village the two years shall be reckoned from the respective times when the last determination was made by the assessors.

(5) If the assessors differ, notice of the fact shall be forthwith given to the inspecting trustee, who shall act with the assessors in determining the proportions, and the decision of a majority shall be final and conclusive.

Determination when assessors differ.

(6) The determination of the assessor or of the assessors and the inspecting trustee shall be forthwith communicated to the clerk of each of the townships.

Notice of determination to be given to clerk of township.

(7) The meeting of the assessors shall be called by the assessor of the township in which is situate the larger or largest part of the rateable property of the village.

Who to call meeting of assessors.

(8) The proportions as determined under this section shall govern until the next determination is to be made as provided by subsection 3. 3-4 Geo. V. c. 43, s. 510.

How long determination to govern.

511. The ratepayers of the village shall be entitled to such deduction from the township rate payable by them as may be agreed on between the trustees and the council of

Reduction of township rates—determination of.

the township, or if the village comprises parts of two or more townships, by the councils of the respective townships, or if they are unable to agree as shall be determined by a judge of the county court of the county in which the village, or if it comprises more counties than one, the larger or largest part of the village is situate. 3-4 Geo. V. c. 43, s. 511.

Commuta-
tion of
statute
labour.

512.—(1) The trustees shall be entitled to have the statute labour to be performed by the ratepayers of the village performed in the village.

When coun-
cil required
to commute.

(2) If the trustees request the council of a township to commute the statute labour payable by the ratepayers in that part of the village which is situate in the township, the council shall provide for such commutation at such rate not exceeding \$1 per day, as may be requested by the trustees.

Collection
and applica-
tion of com-
mutation
money.

(3) The amount of the commutation money shall be collected by the collector of the township and be placed to the credit of the trustees in the books of the treasurer of the township. 3-4 Geo. V. c. 43, s. 512.

Powers of
trustees.

513. The trustees may,

(a) construct sidewalks and culverts and make, improve, drain and repair the highways in the village;

(b) make contracts for the supply of light, heat or power by any person to the trustees for the purposes of the village or to the residents thereof;

and do all things necessary for any of such purposes. 3-4 Geo. V. c. 43, s. 513.

Payment by
township
treasurer of
orders of
trustees.

514.—(1) The treasurer of a township shall, if he has money of the corporation in hand and not otherwise appropriated, from time to time pay any order of the inspecting trustee or of any two of the trustees to the extent of

(a) the sum required by section 509 to be levied by the council of the township and any sum which the council is required by the provisions of this Part to place to the credit of the trustees, although the same have not been then collected;

(b) any money received for license fees under any by-law of the trustees and for penalties for breaches of any such by-law or of sections 524, 525 and 526; and

(c) any money placed to the credit of the trustees under the authority of section 515.

When orders
not to be
given.

(2) An order shall not be given under this section except for work actually performed or in payment in pursuance of an executed contract. 3-4 Geo. V. c. 43, s. 514.

515. The council of a township in which the whole or a part of a police village is situate may by by-law provide that the whole or any part of the money received by the corporation of the township for licenses issued under *The Liquor License Act* for premises situate in the village or for penalties imposed for offences against that Act committed in the village shall be placed to the credit of the trustees in the books of the treasurer of the township. 3-4 Geo. V. c. 43, s. 515.

Power of township to pay to trustees part of moneys received for liquor licenses, etc., in villages. Rev. Stat. c. 215.

516.—(1) Upon the application of the trustees the council of a township in which a police village is situate shall submit for the assent of the electors of the village, and if it receives such assent shall pass a by-law for borrowing money for

Submission of money by laws for certain purposes.

- (a) the construction of sidewalks of cement, concrete, brick or other permanent material;
- (b) the purchase of fire engines and other appliances for fire protection and the supply of water therefor;
- (c) lighting the highways in the village; and
- (d) supplying light, heat or power to the trustees for the purposes of the village or to the residents thereof;

and for the issue of debentures of the corporation of the township for the money borrowed, payable on the instalment plan, at such time within ten years and in such manner as the trustees may request.

(2) The special rate for the payment of the principal and interest shall be imposed upon the rateable property in the village.

Special rate.

(3) The money borrowed shall be retained in the hands of the treasurer of the township, and he shall pay out of it the orders of the inspecting trustee or of any two trustees in payment for work actually performed or of an executed contract with respect to the work or service for undertaking which the by-law was passed.

Expenditure of money borrowed.

(4) When the by-law is passed, the trustees may undertake the work or service.

Undertaking of work.

(5) The trustees shall have the control, care and management of the fire engine and appliances, and of the plant and appliances for the supply of light, heat or power.

Control of fire engines, etc.

(6) The trustees shall in each year before the striking of the rate by the council of the township furnish to the clerk a statement showing in detail the amount required to be levied upon the rateable property of the village for the current year for any such work or service which has been undertaken and for the care and maintenance of any fire engine and appliances purchased and for providing water therefor

Statement to be furnished to clerk of township, of amount required to be levied for certain purposes.

and for the maintenance and operation of the plant and appliances for the supply of light, heat or power. 3-4 Geo. V. c. 43, s. 516.

Purchase of fire engines and appliances with consent of township council.

517.—(1) The trustees may, with the consent of the council of the township in which the village is situate expressed by by-law or resolution, purchase fire engines and appliances for fire protection at a cost not exceeding \$3,000, and pay therefor in instalments within ten years.

Township to pass debenture by-law.

(2) Upon the purchase being made the council of the township shall pass a by-law for raising the amount of the purchase money by the issue of debentures of the corporation of the township on the instalment plan, payable within ten years.

Special rate.

(3) The special rate imposed for the payment of the debentures shall be imposed upon the rateable property in the village.

Assent of electors not required.

(4) The assent of the electors to the by-law shall not be necessary.

(5) Subsections 5 and 6 of section 516 shall apply to a fire engine and appliances purchased under the authority of this section. 3-4 Geo. V. c. 43, s. 517.

Agreement for use by township of fire engine.

518. The trustees may contract with the corporation of a township in which the whole or any part of the village is situate for the use by the corporation of a fire engine and appliances purchased under the authority of this Part upon such terms as to payment for the use of them and otherwise as may be agreed upon. 3-4 Geo. V. c. 43, s. 518.

Establishment of Parks, Gardens, etc.

Acquiring land for parks, exhibitions, etc.

519.—(1) Upon the petition of three-fourths of the electors qualified to vote upon money by-laws the council of a township in which a police village is situate may pass a by-law for acquiring land within or without the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council may deem necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes.

Control and management of parks, etc.

(2) The trustees shall have the care, control and management of such highway, park, garden or place.

(3) The council of the township may provide that,

Powers of township council as to levying costs of parks, etc.

(a) the money required for the purpose mentioned in subsection 1 shall be levied upon the rateable property in the village, or,

(b) such money be raised by the issue of debentures of the corporation of the township on the instalment plan payable within 10 years.

(4) The by-law shall impose the special rate for the payment of the debentures upon the rateable property in the village. Special rates.

(5) The trustees shall annually before the striking of the rate for the year by the council of the township furnish to the council a statement showing in detail the amount required to be levied for the current year for managing and maintaining the highway, park, garden or place of exhibitions, and the same shall be levied upon the land in the village. Statement as to amount required for maintenance of parks, etc.

(6) The assent of the electors to a by-law passed under this section shall not be necessary. 3-4 Geo. V. c. 43, s. 519. Assent of electors not required.

520.—(1) Where the village comprises parts of two or more townships a by-law for the purposes mentioned in sections 516, 517 and 519 may be passed by the trustees, with the assent of the electors of the village qualified to vote on money by-laws; and for the purposes of such by-laws the trustees shall have all the powers of the council of a village, except the power to issue the debentures for the payment of the principal and interest. Trustees to pass money by-laws where village situate in two or more townships.

(2) The by-law shall fix the proportion of the debt, for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 509 is to be levied according to the then last determination of the assessors or of the assessors and the inspecting trustee under section 510. Fixing proportion of debt to be borne by parts of village.

(3) If the by-law receives the assent of the electors the trustees, after passing it, shall serve a certified copy of it upon the clerk of each of the townships. Certified copy for each township.

(4) The council of each township shall forthwith there- after pass a by-law for raising the amount which is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it shall not be necessary that such by-law shall receive the assent of the electors or impose any rate for the payment of the debentures. By-law of township for raising money.

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. 3-4 Geo. V. c. 43, s. 520. Special rates.

Appointment
of constable.

521.—(1) The trustees may appoint a constable for the village who shall have the same powers and perform the same duties within the village as a constable appointed by the council of a village.

Salary.

(2) The constable may be paid by salary or may keep for his own use the fees of his office as the trustees may determine.

When fees
of constable
to belong
to village.

(3) Where the constable is paid by salary the trustees may require that the fees of his office be paid to the treasurer of the township in which the village is situate or where the village comprises parts of two or more townships to the treasurer of any or either of them for the use of the village. 3-4 Geo. V. c. 43, s. 521.

Special Powers.

Special
powers of
trustees.

522.—(1) The trustees shall have the like power to pass by-laws as is conferred on the council of a village with respect to the matters under the following sub-headings:—

S. 398, pars. 8, 9.

(a) Driving or riding on roads and bridges;

S. 398, par. 17.

(b) Free libraries;

S. 398, par. 37.

(c) Sidewalks—Vehicles on;

S. 399,
pars. 52-55.

(d) Pounds;

S. 399,
pars. 61, 62.

(e) Snow and Ice, removal of;

S. 400, par. 44.

(f) Sidewalks—Horses and cattle upon;

S. 400, par. 46.

(g) Spitting on sidewalks;

S. 400, par. 49.

(h) Traffic on highways, etc., driving of cattle, etc.;

S. 419, par. 2.

(i) Tobacconists;

S. 420, par. 1.

(j) Bagatelle and billiard tables; and

S. 420, par. 3.

(k) Exhibitions, places of amusement, etc.

Fixing
amount of
license fee.

(2) Where power is conferred to license, the license fee shall be fixed by the trustees, and subsections 1, 3, 4, and 5 of section 253 shall apply.

When by-
law of
township
not to
apply to
village.

(3) While a by-law passed under the authority of subsection 1 is in force, no by-law of the council of the township applicable to the same subject matter shall apply to or be in force in the village. 3-4 Geo. V. c. 43, s. 522.

Authentica-
tion of
by-laws.

523.—(1) Every by-law of the trustees shall be signed by at least two of them.

Certified
copies to
be sent to
clerk of
township.

(2) A certified copy of every such by-law shall within seven days after it is passed be transmitted to the clerk of

every township a part of which is comprised in the village.
3-4 Geo. V. c. 43, s. 523.

Prevention of Fire.

524.—(1) Every proprietor of a house more than one storey high shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a penalty of \$1 for every omission; and a further penalty of \$2 for every week for which such omission continues.

For provid-
ing ladders,
etc.

Penalty.

(2) Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a penalty of \$1 for each bucket not so provided.

Fire
buckets.

Penalty.

(3) No person shall build any oven or furnace unless it adjoins and is properly connected with a chimney of stone or brick at least three feet higher than the house or building in which the oven or furnace is built, under a penalty not exceeding \$2 for non-compliance.

As to
furnaces,
etc.

Penalty.

(4) No person shall pass a stove-pipe through a wooden or lathed partition or floor, unless there is a space of four inches between the pipe and the wood-work nearest thereto; and the pipe of every stove shall be inserted into a chimney; and there shall be at least ten inches in the clear between any stove and any lathed partition or wood-work, under a penalty of \$2.

Stove pipes,
etc.

Penalty.

(5) No person shall enter a mill, barn, outhouse or stable with a lighted candle or lamp, unless it is well enclosed in a lantern, nor with a lighted pipe or cigar, nor with fire not properly secured, under a penalty of \$1.

Lights in
stables, etc.

Penalty.

(6) No person shall light or have a fire in a wooden house or outhouse, unless such fire is in a brick or stone chimney, or in a stove of iron or other metal, properly secured, under a penalty of \$1.

Chimneys.

Penalty.

(7) No person shall carry fire or cause fire to be carried into or through any street, lane, yard, garden or other place, unless such fire is confined in a copper, iron or tin vessel, under a penalty of \$1 for the first offence, and of \$2 for every subsequent offence.

Securing
fire carried
through
streets, etc.

Penalty.

(8) No person shall light a fire in a street, lane or public place under a penalty of \$1.

Lighting
fires on
streets.
Penalty.

(9) No person shall place hay, straw or fodder, or cause the same to be placed, in a dwelling house, under a penalty of \$1 for the first offence, and of \$5 for every week the hay, straw or fodder is suffered to remain there.

Hay, straw,
etc.

Penalty.

Ashes, etc.

(10) No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a penalty of \$1.

Penalty.

Lime.

(11) No person shall place or deposit any quick or un-slacked lime in contact with any wood of a house, outhouse or other building, under a penalty of \$1, and a further penalty of \$2 a day until the lime has been removed, or is secured, so as to prevent any danger from fire, to the satisfaction of the inspecting trustee.

Penalty.

Charcoal
furnaces.
Penalty.

(12) No person shall erect a furnace for making charcoal of wood, under a penalty of \$5. 3-4 Geo. V. c. 43, s. 524.

Gunpowder.

Gunpowder,
how to be
kept.

525.—(1) No person shall keep or have gunpowder for sale, except in boxes of copper, tin or lead, under a penalty of \$5 for the first offence, and \$10 for every subsequent offence.

Penalty.

Not to be
sold at night.

(2) No person shall sell gunpowder, or permit gunpowder to be sold in his house, storehouse or shop, outhouse or other building, at night, under a penalty of \$10 for the first offence, and of \$20 for every subsequent offence. 3-4 Geo. V. c. 43, s. 525.

Nuisances.

Certain
nuisances
prohibited.

526. No person shall throw, or cause to be thrown, any filth or rubbish into a street, lane or public place, under a penalty of \$1, and a further penalty of \$2 for every week for which he neglects or refuses to remove the same after being notified to do so by the inspecting trustee or by some other person authorized by him. 3-4 Geo. V. c. 43, s. 526.

Trustees
required to
prosecute
offenders.

527.—(1) It shall be the duty of the trustees to see that the provisions of the next preceding three sections are not contravened, and that offenders are prosecuted for breaches of them.

Penalty for
neglect to
prosecute.

(2) Any trustee who wilfully neglects or omits to prosecute an offender against any of the provisions of sections 524, 525 or 526, when requested so to do by a resident householder of the village who offers to adduce proof of the offence, and a trustee who wilfully neglects or omits to fulfil any other duty imposed on him by this Part shall incur a penalty of \$5. 3-4 Geo. V. c. 43, s. 527.

Penalties—
how recover-
able.

528. The penalties imposed by or under the authority of this Part shall be recoverable under *The Ontario Summary Convictions Act*, all of the provisions of which shall apply except that proceedings for the recovery of penalties for

Rev. Stat.
c. 90.

contraventions of sections 524 to 527 shall be commenced within ten days after the commission of the offence, or if it is a continuing offence within ten days after it has ceased and not afterwards. 3-4 Geo. V. c. 43, s. 528.

Incorporation of Trustees.

529.—(1) Where a police village has a population of not less than 500, the trustees may be created a body corporate and when incorporated the corporation shall be styled "The Board of Trustees of the Police Village of _____" (naming it). Incorporation of Board of Trustees.

(2) The provisions of this Part as to the erection of a Police Village shall apply *mutatis mutandis* to an application for the incorporation of the trustees of a police village with the exception that the petition for incorporation shall be signed by not less than 50 resident freeholders of the village whose names are entered on the last revised assessment rolls of the municipality or municipalities of parts of which the village is composed. 3-4 Geo. V. c. 43, s. 529. Procedure as to incorporation of board.

530.—(1) At its first meeting in each year the Board shall appoint one of its members to be the Chairman, and shall also appoint a Secretary. Appointment of Chairman and Secretary.

(2) The chairman shall, if present, preside at all meetings of the Board and in his absence the Board shall appoint one of its members to act as Chairman during such absence. 3-4 Geo. V. c. 43, s. 530. Presiding officer.

531.—(1) The by-laws of the Board shall be signed by the Chairman or acting Chairman and shall be sealed with its seal. Authentication of by-laws.

(2) The provisions of this Act as to the proof of by-laws of a council shall apply to the by-laws of the Board. 3-4 Geo. V. c. 43, s. 531.

532. The expenses of repairing and maintaining all works, improvements and services undertaken by the Board under the authority of this Act shall be borne by the Board, and such expenses shall be levied and collected by the councils of the townships on the requisition in writing of the Board in like manner as the money to be levied as provided by section 509. 3-4 Geo. V. c. 43, s. 532. Repair and maintenance of improvements and works.

533.—(1) If the Board makes default in maintaining and keeping in repair any such work, and the corporation of a township becomes liable under section 460 for damages suffered by or occasioned to any person in consequence of such default, the corporation shall be entitled to the remedy over against the Board provided for by section 464. Remedy over of township against Board for damages occasioned by non-repair.

Special rate for collection of amount of damages.

(2) The amount required to satisfy the liability of the Board shall be levied and collected by a special rate on the rateable property in the village, and it shall be the duty of the Board to make a requisition in writing to the council of the township to levy and collect the same.

Apportionment of special rate.

(3) Where the village comprises parts of two or more townships the special rate shall be apportioned between the townships in the manner provided by section 510, and shall be levied and collected by the councils thereof in accordance with the requisition of the Board. 3-4 Geo. V. c. 43, s. 533.

Power to construct water, light, heat, power, and gas works.

534.—(1) The Board shall have the like powers as the council of a village for constructing, purchasing, improving, extending, maintaining, managing and conducting water, light, heat, power and gas works.

Copy of by-law to be filed with township clerk.

(2) A copy of every by-law passed under the authority of subsection 1 shall be filed with the clerk of every township in which any part of the village is situate.

Special rates.

(3) Where the village is situate in one township, the council of that township shall levy and collect the amount required to be raised under any such by-law by a special annual rate upon the rateable property in the village, and where the village comprises parts of two or more townships, the council of each township shall levy and collect the proportion of the amount to be raised by it by a special annual rate on the rateable property in that part of the village situate in such township.

Proportion of each township.

(4) The proportion to be raised by each township shall be determined under the provisions of section 510. 3-4 Geo. V. c. 43, s. 534.

Board to have all power of trustees of a police village.

535.—(1) The powers expressly conferred on boards of trustees of police villages shall be in addition to the powers conferred by this Part on trustees of a police village, and except where other provision is made by this Part with respect to such boards all the provisions of this Part relating to trustees of police villages shall apply to such boards.

Power to impose penalties, etc.

(2) Section 497, subsection 2 of section 498, and sections 499 and 500 shall apply *mutatis mutandis* to by-laws passed under the authority of this Part by a board of trustees of a police village. 3-4 Geo. V. c. 43, s. 535.

PART XXIV.

MISCELLANEOUS.

Forms of by-laws, notices, etc.

536. Where the Forms therefor are not prescribed by this Act the Municipal Board may approve of forms of by-laws, notices and other proceedings to be passed, given, or taken

under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding which is in substantial conformity with the Form so approved shall not be open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto, but the use of such Forms shall not be obligatory. 3-4 Geo. V. c. 43 s. 536.

537. The Lieutenant-Governor in Council may by proclamation declare that section 566 of *The Consolidated Municipal Act, 1903*, shall cease to have effect on and from a day to be named in such proclamation and on and from that day the section shall be deemed to be repealed.

Repeal of
3 Edw. VII.
c. 19, s. 566.

FORM 1.

DECLARATION OF INCORPORATION.

TOWNSHIPS IN UNORGANIZED TERRITORY.

I, _____ Judge of the District
Court of the Provisional Judicial District of _____
hereby certify:

1. That the inhabitants of the township of _____
in the said district (or of that part of the said district described
as follows [*describing it*]), or of the townships of _____
and _____ in the said district
(*as the case may be*), are incorporated as a township municipality
(*or as a union of townships municipality, as the case may be*), by
the name of the Corporation of the township of _____
(*or of the united townships of _____, as
the case may be*).

2. That _____ was elected reeve
and _____
were elected councillors for the municipality.

3. The first meeting of the council shall be held on the _____
day of _____ at _____

Dated at _____ this _____ day of _____
_____, 19 _____

3-4 Geo. V. c. 43, Form 1.

FORM 2.

DECLARATION OF QUALIFICATION BY CANDIDATE.

I, A. B., declare that

1. I am a British subject by birth (or naturalization), and not a citizen or subject of any foreign country.

2. I have to my own use and benefit in my own right (or my wife has, as the case may be) as owner (or tenant, as the case may be), such estate as qualifies me for the office of (naming the office) for which I am a candidate (a), (d).

3. Such estate is (state the nature of the estate as a legal estate of freehold or otherwise, as the case may be) in (designate the land by its local description or otherwise).

4. The land is assessed in my own name (or in the name of my wife, as the case may be) on the last revised assessment roll of this municipality at the sum of \$ (b) which exceeds by at least \$ the amount of all liens, charges and encumbrances thereon (c).

5. I am not liable for any arrears of taxes to the corporation of this municipality.

6. There are no arrears of taxes against the land in respect of which I qualify.

Declared before me at	}	A. B.
the day of		
19		

(a) Where the candidate qualifies under subsection 2 of section 52, substitute for paragraphs 2 and 4 the following:

2. I had to my own use and benefit (or my wife had, as the case may be) as owner (or tenant, as the case may be), at the time of the return of the last assessment roll of this municipality such an estate in land rated on that assessment roll in my own name or in the name of my wife as the case may be, as would have qualified me for the office of (naming it).

4. I have (or my wife has, as the case may be) an estate in land (describing it) assessed on the last revised assessment roll of this municipality for \$, which exceeds by at least \$ the amount of all liens, charges and encumbrances thereon, and is sufficient to qualify me for such office if I (or my wife, as the case may be) had been assessed for it.

(b) Where the candidate qualifies on a leasehold estate omit the remainder of this paragraph.

(c) Where the candidate qualifies under clause (e) of subsection 1 of section 52, substitute for paragraph 4 the following:

4. The land is assessed in my own name (or in the name of my wife, as the case may be) on the last revised assessment roll of this municipality for at least \$2,000, and I am in actual occupation of such land.

(d) In the case of a person elected as a member of a township council substitute for the words "for which I am a candidate" the words "to which I was elected," and change paragraphs 2, 6 and 7 so as to refer to the time of the election.

FORM 3.

BALLOT PAPERS FOR CITIES AND TOWNS.

FORM FOR MAYOR.

<div style="writing-mode: vertical-rl; transform: rotate(180deg);"> Election for the Members of the Municipal Council of the City of _____, Ward No. _____, Polling Subdivision No. _____, day of January, 19____. </div>	FOR MAYOR.	ALLAN.
		Charles Allan, of King Street, in the City of Toronto, Merchant.
		BROWN.
		William Brown, of the City of Toronto, Banker.

FORM FOR REEVE AND DEPUTY REEVE IN TOWNS.

<div style="writing-mode: vertical-rl; transform: rotate(180deg);"> Election for the Members of the Municipal Council of the Town of _____, Ward No. _____, Polling Subdivision No. _____, day of January, 19____. </div>	FOR DEPUTY-REEVE	CLITHEROE.
		Albert Clitheroe, of the Town of Galt, Baker.
	FOR REEVE.	HUGHES.
		David Hughes, of the Town of Galt, Tinsmith.
		FARQUHARSON.
		Robin Farquharson, of the Town of Galt, Builder.
		MacPHERSON.
		Roderick MacPherson, of the Town of Galt, Printer.

FORM FOR ALDERMEN OR COUNCILLORS.

<div style="writing-mode: vertical-rl; transform: rotate(180deg);"> Election for the Members of the Municipal Council of the City of _____, Ward No. _____, Polling Subdivision No. _____, day of January, 19____. </div>	FOR ALDERMAN (or) COUNCILLOR.	ARGO.
		James Argo, of the City of Toronto, Gentleman.
		BAKER.
		Samuel Baker, of the City of Toronto, Baker.
		DUNCAN.
		Robert Duncan, of the City of Toronto, Printer.

NOTE.—[In the case of cities and towns where the Aldermen or Councillors are elected by general vote the form above given is to be adapted to suit the case.]

FORM 4.

BALLOT PAPER FOR VILLAGES.

<div></div>	<div>Election of Members of the Municipal Council of the in the County of Polling Subdivision No. day of January,</div>	<div>FOR REEVE.</div>	<div>BROWN.</div> <div>John Brown, of the Village of Weston, Merchant.</div>
			<div>ROBINSON.</div> <div>George Robinson, of the Village of Weston, Physician.</div>
			<div>BULL.</div> <div>John Bull, of the Village of Weston, Butcher.</div>
			<div>JONES.</div> <div>Morgan Jones, of the Village of Weston, Grocer.</div>
			<div>McALLISTER.</div> <div>Allister McAllister, of the Village of Weston, Tailor.</div>
			<div>O'CONNELL.</div> <div>Patrick O'Connell, of the Village of Weston, Milkman.</div>

FORM 5.

BALLOT PAPER FOR TOWNSHIPS.

Election of Members of the Municipal Council of the Township of _____ in the County of _____	FOR REEVE.	ALLSOPP. Albert Allsopp, of the Township of York, Brewer.
	FOR FIRST DEPUTY-REEVE.	BURTON. Henry Burton, of the Township of York, Farmer.
	FOR SECOND DEPUTY-REEVE.	BANKS. John Banks, of the Township of York, Blacksmith.
	FOR THIRD DEPUTY-REEVE.	CALDWELL. Henry Caldwell, of the Township of York, Market Gardener.
	FOR COUNCILLORS.	CONNOR. Patrick Connor, of the Township of York, Cattle Dealer.
		DAVIDSON. Thomas Davidson, of the Township of York, Milkman.
		EDWARDS. Daniel Edwards, of the Township of York, Miller.
		FERGUSON. George Ferguson, of the Township of York, Nurseryman.
		BRITTON. James Britton, of the Township of York, Farmer.
		LLOYD. David Lloyd, of the Township of York, Farmer.
		MACDONALD. Philip MacDonald, of the Township of York, Agent.
		O'LEARY. Dennis O'Leary, of the Township of York, Farmer.

Note.—Where the election is to fill a vacancy, the ballot papers are to contain only so much of the form as is required; and the counterfoils shall bear, instead of the words appearing on the form the words “Election of, to fill a vacancy in the office of, Ward No....., Polling subdivision No..... day of, 19...”

Where controllers, or commissioners, or members of the Board of Education are to be elected the ballot papers are to be similar in form.

FORM 6.

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter will go into one of the compartments, and with the pencil provided in the compartment, place a cross, thus **X** on the right hand side, opposite the name or names of the candidate or candidates for whom he votes or at any other place within the division which contains the name or names of such candidate or candidates.

The voter will fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (or Returning Officer, as the case may be) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot paper so folded to the Deputy Returning Officer (or Returning Officer, as the case may be) and forthwith quit the polling place.


If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (or Returning Officer, as the case may be) who will if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more candidates for any office than he is entitled to vote for, his ballot paper will be void as far as relates to that office, and will not be counted for any of the candidates for that office.

If the voter places any mark on his ballot paper by which he may afterwards be identified, or if the ballot paper has been torn, defaced, or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Officer, he will be subject to imprisonment for any term not exceeding 6 months, with or without hard labor.

In the following forms of ballot paper, given for illustration, the candidates are, for Mayor, Jacob Thompson and Robert Walker; for Reeve, George Jones and John Smith; for Deputy Reeve, Thomas Brown and William Davis; for Councillors, John Bull, Morgan Jones, Allister McAllister and Patrick O’Connell; and the elector has marked the first ballot paper in favour of Jacob Thompson for Mayor, the second ballot paper in favour of George Jones for Reeve, the third ballot paper in favour of William Davis for Deputy Reeve, and the fourth ballot paper in favour of John Bull and Patrick O’Connell for Councillors.

	Election for the Members of the Municipal Council, of the No. of Ward day of Jan- uary, 19 .	FOR MAYOR.	<div style="text-align: center;"> THOMPSON. Jacob Thompson, of the Town of Barrie, Merchant. </div> <hr/> <div style="text-align: center;"> WALKER. Robert Walker, of the Town of Barrie, Physician. </div>
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<div style="border: 1px solid black; height: 100px; width: 100%;"></div>	Election for the Members of the Municipal Council of the Ward of Jan- uary, 19 . . . No. . .	FOR REEVE	JONES. George Jones, of the Town of Barrie, Barrister.	X
			SMITH. John Smith, of the Town of Barrie, Banker.	

<div style="border: 1px solid black; height: 100px; width: 100%;"></div>	Election for the Members of the Municipal Council of the Ward of Jan- uary, 19 . . . No. . .	FOR DEPUTY REEVE	BROWN. Thomas Brown, of the Town of Barrie, Grocer.		
			DAVIS. William Davis, of the Town of Barrie, Jeweller.		X

<div style="border: 1px solid black; height: 100px; width: 100%;"></div>	Election for the Members of the Municipal Council of the Ward No. . . Poll- ing Subdivision No. . . day of January, 19 . . .	FOR COUNCILLORS	BULL. John Bull, of the Town of Barrie, Butcher.	X	
			JONES. Morgan Jones, of the Town of Barrie, Grocer.		
			McALLISTER. Allister McAllister, of the Town of Barrie, Tailor.		
			O'CONNELL. Patrick O'Connell, of the Town of Barrie, Milkman.		X

FORM 7.

FORM IN WHICH POLL BOOK TO BE FURNISHED TO DEPUTY RETURNING OFFICERS IS TO BE PREPARED.

Column for mark indicating that the voter has voted.	NAMES OF THE VOTERS.		Description of Pro- perty in respect of which the voter is entitled to vote.	Freeholder, Tenant Farmer's Son or Income Voter.	Residence of Voter.	Occupation.	Objections.	Sworn or affirmed.	Refused to swear or affirm.	Mayor and Reeve.	Deputy Reeves.	Councillors.	REMARKS.

NOTE.—In Cities, the column above headed "Mayor and Reeve" is to be headed "Mayor"; and the column above headed "Councillors" is to be headed "Aldermen." In Townships and Villages, the column above headed "Mayor and Reeve" is to be headed "Reeve." Where Control-
lers or Commissioners or Members of a Board of Education are to be elected, columns for these are to be added with appropriate headings.
3-4 Geo. V. c. 43, Form 7.

FORM 8.

CERTIFICATE AS TO ASSESSMENT ROLL AND VOTERS' LIST.

Election to the Municipal Council of the
of 19
I, A. B., Clerk of the Municipality of in the
county of hereby certify that the assess-
ment roll for this municipality upon which the voters' list to be
used at this election is based was finally revised on the
day of 19, and that the last day for making
complaint to the Judge with respect to the list was
day of 19

Dated this day of 19
[Seal.] A. B.,
Clerk.

3-4 Geo. V. c. 43, Form 8.

FORM 9.

OATH TO BE ADMINISTERED TO A VOTER.

You swear (a)

1. That you are the person named or intended to be named by
the name of in the list (or
supplementary list) of voters (b) now shown to you.

2. That you are a natural born (or naturalized) subject of His
Majesty, and of the full age of twenty-one years.

3. That you are not a citizen or subject of any foreign country.

4. (In the case of an unmarried woman or widow) That you are
unmarried (or a widow, as the case may be).

5. That (c)

6. (In the case of a municipality not divided into wards) That
you have not voted before at this election at this or any other poll-
ing place.

7. (Where the municipality is divided into wards and the election
is not by general vote) That you have not voted before at this elec-
tion at this or any other polling place in this ward, (or if the elec-
tion is by general vote) that you reside in this polling subdivision
(or are not entitled to vote in the polling subdivision in which you
reside or are not resident within the municipality, as the case may
be), and that you have not voted before or elsewhere at this election,
and will not vote elsewhere at this election (d).

8. That you have not directly or indirectly received any reward
or gift, nor do you expect to receive any, for the vote which you
tender.

9. That you have not received anything, nor has anything been
promised you, directly or indirectly, either to induce you to vote
at this election, or for loss of time, travelling expenses, hire of
team, or any other service connected with this election.

10. That you have not directly or indirectly paid or promised
anything to any person to induce him to vote or to refrain from
voting at this election.

(a) If the voter is a person who may by law affirm in civil cases,
substitute for "swear," "solemnly affirm."

(b) In the case of a new municipality in which there has not
been any assessment roll, instead of referring to the list of voters,

the oath is to state the land in respect of which the person claims to vote.

(c) In the case of a person claiming to vote in respect of a freehold estate, insert here, "At the date of this election you are in your own right, or your wife is, a freeholder within this polling subdivision (or, where the ward is not divided into polling subdivisions, "within this ward").

In the case of a person claiming to vote in respect of a leasehold estate, insert here "That you were (or your wife was) actually and truly in good faith possessed to your (or her) own use and benefit as tenant of the land in respect of which your name is entered on such list. That you are (or your wife is) a tenant within this municipality, and that you have been a resident within it for one month next before this election;" (or, in the case of a new municipality for which there is no assessment roll, instead of the words "have been a resident within it for one month next before the election," insert "You are a resident of this municipality").

If the person claims to vote in respect of income, insert here That on the _____ day of _____ 19____ (the day certified by the clerk as the date of the final revision of the assessment roll upon which the voters' list is based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the Judge with respect to such list) you were, and thenceforth have been continuously, and still are, a resident of this municipality, and that at that date and for the twelve months previously you were in receipt of an income from your trade, office, calling or profession of not less than four hundred dollars.

In the case of a person claiming to vote as a farmer's son, insert here That on the _____ day of _____ 19____ (the day certified by the clerk as the date of the final revision of the assessment roll upon which the voters' list is based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the Judge with respect to such list) A. B. (naming him or her) _____ was actually, truly and in good faith possessed to his (or her) own use and benefit as owner (or as tenant under a lease the term of which was not less than five years), as you verily believe, of the land in respect of which your name is entered on the voters' list; That you are a son (or a stepson) of the said A. B., and that you resided on the said land for twelve months next before the said day, and were not absent during that period except temporarily, and for not more than six months in all, and that you are still a resident of this municipality.

Where the voter or his wife is a leaseholder, and the voting is on a by-law under section 51 of The Local Improvement Act, add

That you have (or your wife has), by the lease under which you (or she) holds, contracted to pay all municipal taxes, including local improvement rates.

(d) If the by-law is for creating a debt substitute for paragraph 7.

(In the case of the municipality divided into wards, if the by-law is one for creating a debt): 7. That you have not voted before on the by-law at this or any other polling place in this ward; (or in the case of any other by-law): 7. That you reside in this polling subdivision or are not entitled to vote in the polling subdivision in which you reside, or are not resident within the municipality (as the case may be), and that you have not voted before elsewhere, and will not vote elsewhere on the by-law.

(Where the voter or his wife is a leaseholder, and the voting is on a by-law for creating a debt, add the following paragraph:

11. That the lease under which you hold (or your wife holds) extends for the period for which the debt or liability to be created

by the by-law is to run, and you have (or your wife has) contracted by the lease to pay all municipal taxes in respect of the land other than special assessments for local improvements.

Where the voting is on a by-law substitute for the words "at this election" the words "on the by-law"; and where the voting is on a question, substitute for the words "at this election" the words "on the question."

3-4 Geo. V. c. 43, Form 9.

NOTE.—*Where the voter is the nominee of a corporation the oath shall state the fact, and that the voter has not voted before on the by-law "at this or any other polling place," adding if the municipality is divided into wards "in this ward," and shall also contain paragraphs 1, 8, 9 and 10.*

FORM 10.

DECLARATION OF INABILITY TO READ.

I, A. B., of _____, being numbered _____ on the voters' list, for polling subdivision No. _____, in the City (or as the case may be) of _____, being a legally qualified elector for the City (or, as the case may be) of _____ declare that I am unable to read (or that I am from physical incapacity unable to mark a ballot paper, or that I object on religious grounds to mark a ballot paper, as the case may be).

Dated this _____ day of _____, 19 _____ (A.B., His X Mark.)

3-4 Geo. V. c. 43, Form 10.

NOTE.—*If the person objects on religious grounds to mark a ballot paper, the declaration may be made orally and to the above effect.*

FORM 11.

CERTIFICATE TO BE WRITTEN UPON OR ANNEXED TO THE DECLARATION OF INABILITY TO READ.

I, C.D., Deputy Returning Officer for polling subdivision No. _____ for the City (or as the case may be) of _____, hereby certify that the above (or within) declaration, having been first read to the above (or within) named A. B., was signed by him in my presence with his mark.

Dated this _____ day of _____, 19 _____ C. D.

3-4 Geo. V. c. 43, Form 11.

FORM 12.

OATH OF POLL CLERK OR MESSENGER WHERE THE DEPUTY RETURNING OFFICER IS UNABLE TO DELIVER THE BALLOT BOX TO THE RETURNING OFFICER.

I, _____ swear that I am the person to whom _____ Deputy Returning Officer for Polling Subdivision No. _____ of _____ entrusted the ballot box for the said polling subdivision to be

delivered to the Clerk; that the ballot box which I delivered to the Clerk this day is the ballot box I so received; that I have not opened it and that it has not been opened by any other person since I received it from the Deputy Returning Officer.

Sworn before me at
this
day of 19 . }

3-4 Geo. V. c. 43, Form 12.

FORM 13.

OATH OF DEPUTY RETURNING OFFICER AFTER CLOSING OF THE POLL.

I, A. B., Deputy Returning Officer for Polling Subdivision No. , of the City (*or, as the case may be*) of in the County , swear that, to the best of my knowledge and belief, the poll book kept for the said polling place under my direction has been kept correctly, that the total number of votes polled according to the said poll book is , and that it contains a true and exact record of the votes given at the said polling place, as the said votes were taken thereat; that I have correctly counted the votes given for each candidate, in the manner by law provided, and performed all duties required of me by law, and that the statement, voters' list, poll book, packets containing ballot papers, and other documents required by law to be returned by me to the Clerk, have been faithfully and truly prepared and placed in the ballot box, and are contained in the ballot box, returned by me to the Clerk, which was locked and sealed by me, in accordance with the provisions of *The Municipal Act*, and remained so locked and sealed while in my possession.

Sworn before me at
in the County of
this day of , 19 . } A. B.

3-4 Geo. V. c. 43, Form 13.

FORM 14.

OATH OF SECRECY.

I, A. B., swear that I will not at this election disclose to any person the name of any person who has voted, and that I will not in any way unlawfully attempt to ascertain the candidate or candidates for whom any elector shall vote or has voted, and will not in any way aid in the unlawful discovery of the same; and that I will keep secret all knowledge which may come to me of the person for whom any elector has voted.

Sworn before me this
day of 19 . }
C. D.,
J. P., or as the case may be. A. B.

3-4 Geo. V. c. 43, Form 14.

NOTE.—When the voting is on a by-law or question the Form is to be adapted to that case.

FORM 15.

CERTIFICATE OF CLERK AS TO ELECTION OF REEVES AND DEPUTY REEVES.

I, A. B., of _____ Clerk of the Corporation
of the town (township or village, as the case may be) of _____
in the County of _____ do
hereby, under my hand and the seal of the said Corporation, cer-
tify that C. D., of _____ Esquire (or as the
case may be), was duly elected reeve, (or first deputy reeve, or
second deputy reeve, or third deputy reeve, as the case may be), of
the said town (township or village, as the case may be), and has
made and subscribed the declaration of office and qualification as
such reeve (or first deputy reeve, or second deputy reeve, or third
third deputy reeve, as the case may be). A. B.

3-4 Geo. V. c. 43, Form 15.

FORM 16.

DECLARATION OF OFFICE.

I, A. B., do solemnly promise and declare that I will truly, faith-
fully and impartially, to the best of my knowledge and ability,
execute the office of (*insert name of office, or in the case of a person*
who has been appointed to two or more offices which he may law-
fully hold at the same time), that I will truly, faithfully and im-
partially, to the best of my knowledge and ability, execute the offices
to which I have been elected (or appointed) in this municipality,
and that I have not received, and I will not receive, any payment
or reward, or promise thereof, for the exercise of any partiality
or malversation or other undue execution of the said office (or
offices), and that I have not by myself or partner, either directly
or indirectly, any interest in any contract with or on behalf of the
said Corporation (*where declaration is made by the clerk, treasurer,*
collector, engineer, clerk of works or street overseer, add the words
following) save and except that arising out of my office as clerk
(or my office as assessor or collector, or as the case may be).

3-4 Geo. V. c. 43, Form 16.

FORM 17.

DECLARATION OF ELECTION OFFICERS.

I, A. B., do solemnly promise and declare that I will truly, faith-
fully and impartially, to the best of my knowledge and ability,
execute the office of (*inserting the name of the office*) in this muni-
cipality, and that I have not received, and will not receive, any
payment or reward, or promise thereof, for the exercise of any
partiality or malversation or other undue execution of the said
office.

3-4 Geo. V. c. 43, Form 17.

FORM 18.

DECLARATION OF AUDITOR.

I, A. B., having been appointed auditor for the municipal cor-
poration of _____, promise and declare
that I will faithfully perform the duties of that office according to
the best of my judgment and ability; and I do solemnly declare
that I had not, directly or indirectly, any share or interest in any

contract or employment (except that of auditor, *if reappointed*) with, by or on behalf of such municipal corporation during the year preceding my appointment, and that I have not any such contract or employment except that of auditor, for the present year.

A. B.

3-4 Geo. V. c. 43, Form 18.

FORM 19.

I, the undersigned, A. B., declare that I am an elector in this municipality, and that I am desirous of promoting (*or opposing, as the case may be*) the passing of the by-law to (*here insert object of the by-law*), submitted by the Council of this municipality (*or of voting in the affirmative (or in the negative, as the case may be)*) on the question submitted.

Declared before me this
day of


19

A. B.

3-4 Geo. V. c. 43, Form 19.

FORM 20.

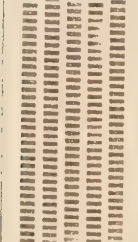
BALLOT PAPER FOR VOTING ON A BY-LAW.

	.....19 Voting on By-law to (<i>here insert object of the By-law</i>), submitted to the Council of the	FOR The By-law.
		AGAINST The By-law.

3-4 Geo. V. c. 43, Form 20.

FORM 21.

BALLOT PAPER FOR VOTING ON QUESTION.

	.....19 Voting on the following question (<i>here state question.</i>)	YES
		NO

3-4 Geo. V. c. 43, Form 21.

FORM 22.

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter will go into one of the compartments, and with the pencil provided in the compartment place a cross (thus **X**) on the right hand side, in the upper space if he votes for the passing of the by-law, or in the affirmative on the question, and in the lower space if he votes against the passing of the by-law, or in the negative on the question.


The voter will then fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (or Returning Officer, *as the case may be*) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot so folded to the Deputy Returning Officer (or Returning Officer *as the case may be*) and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (or Returning Officer *as the case may be*), who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter places on the paper more than one mark, or places any mark on his ballot paper by which he may be afterwards identified, or if the ballot paper has been torn, defaced or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Deputy Returning Officer (or Returning Officer, *as the case may be*) he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

In the following form of Ballot Paper, given for illustration, the Elector has marked his ballot paper in favour of the passing of the By-law:

	.....19 Voting on By-law to (here insert object of the by-law) submitted to the Council of the	FOR	X
		The By-law.	
		AGAINST	
		The By-law.	

3-4 Geo. V. c. 43, Form 22

FORM 23.

NOTICE ON PROMULGATION OF BY-LAW.

The above is a true copy of a by-law passed by the municipal council of the _____ of _____, 19____ day of _____, 19____. And all persons are hereby required to take notice that anyone desirous of applying to have such by-law, or any part thereof, quashed, must make his application for that purpose to the High

Court of Justice, within three months next after the first publication of this notice in the newspaper called the _____, or he will be too late to be heard in that behalf.

3-4 Geo. V. c. 43, Form 23.

FORM 24.

NOTICE OF REGISTRATION OF BY-LAW.

Notice is hereby given that a by-law was passed by the _____ of _____ on the _____ day of _____ 19____, providing for the issue of debentures to the amount of \$ _____, for the purpose of _____, and that such by-law was registered in the registry office of _____ the county of _____ on the _____ day of _____ 19____. Any motion to quash or set aside the same or any part thereof must be made within three months after the first publication of this notice, and cannot be made thereafter.

Dated the _____ day of _____ 19____.
Clerk.

3-4 Geo. V. c. 43, Form 24.

FORM 25.

CHIEF ENGINEER'S CERTIFICATE.

To the Trustees of the _____ Railway Company
Municipal Trust Account.

I, _____ Chief Engineer of the _____ Railway Company, do hereby certify that the company has fulfilled the terms and conditions necessary to be fulfilled under by-law number _____ of the municipal council of the _____ of _____, passed the _____ day of _____ 19____, that is to say (*set out terms and conditions fulfilled*), to entitle the company to receive from the trustees the sum of _____

Dated the _____ day of _____ 19____.
Chief Engineer.

3-4 Geo. V. c. 43, Form 25.

CHAPTER 193.

An Act respecting Local Improvements.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Local Improvement Act*. Short title.
 2 Geo. V. c. 44, s. 1.

INTERPRETATION.

2. In this Act:—

Interpretation.

- (a) "Bridge" shall include a viaduct, a culvert, a sub-^{"Bridge."}way and an embankment and shall also include a pavement on a bridge.
- (b) "Clerk" shall mean and include the clerk of the^{"Clerk."}municipality and any officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by the clerk.
- (c) "Constructing" and "construction" shall include^{"Construct-}reconstructing and reconstruction, wholly or in^{ing."}part, when the lifetime of the work has expired.^{"Construc-}
 1 Geo. V. c. 58, s. 2 (a-c).
- (d) "Corporation" shall mean the corporation of a^{"Corporation."}municipality. 3-4 Geo. V. c. 44, s. 1 (1).
- (e) "Corporation's portion of the cost" shall mean^{"Corporation's}that part or proportion of the cost of a work^{portion of the}which is not to be specially assessed, but is pay-^{cost."}able by the corporation. 1 Geo. V. c. 58, s. 2 (e).
- (f) "Council" shall mean the council of the corporation^{"Council."}of a municipality. 3-4 Geo. V. c. 44, s. 1 (2).
- (g) "County" shall include "district." 1 Geo. V. c. 58, "County"
 s. 2 (g).
- (h) "Curbing" shall include a curbing of any material^{"Curbing."}in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter.
- (i) "Engineer" shall include an officer or person^{"Engineer"}authorized or required by the council to perform

any duty which under this Act is to be or may be performed by an engineer.

- "Frontage." (j) "Frontage," when used in reference to a lot abutting directly on a work, shall mean that side or limit of the lot which abuts directly on the work.
- "Judge of the County Court." (k) "Judge of the County Court" shall mean and include the judge and a junior judge of a county or district court.
- "Lifetime." (l) "Lifetime," as applied or applicable to a work, shall mean the lifetime of the work as estimated by the engineer, or in case of an appeal as finally determined by the Court of Revision or the judge, as the case may be.
- "Lot." (m) "Lot" shall mean a subdivision or a parcel of land which by *The Assessment Act* is required to be separately assessed, and "lots" shall mean more than one lot as so defined. 1 Geo. V. c. 58, s. 2 (i-n).
- Rev. Stat. c. 195.
- "Municipality." (n) "Municipality" shall include a union of townships, a municipality composed of more than one township, a township, a city, a town, a village, but not a county. 1 Geo. V. c. 58, s. 2 (o); 3-4 Geo. V. c. 44, s. 1 (4).
- "Owner." (o) "Owner" and "owners" shall mean respectively
 "Owners." the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land, and, except in the case of a township, shall include a tenant for years, the unexpired term of whose tenancy including any renewal thereof to which he is entitled extends for not less than the period during which the special assessment for the work is to be made, if by the terms of his tenancy he would be liable for the payment of the special assessment for the work, but shall not include a person who is, or is assessed as, owner, where there is a tenant for years of the land, who is an owner within the meaning of this clause.
- Owners portion of the cost. (p) "Owners' portion of the cost" shall mean that part or portion of the cost of a work which is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work.
- "Pavement." (q) "Pavement" shall include any description of pavement or roadway.
- "Paving." (r) "Paving" shall include macadamizing, planking, and the laying down or construction of any description of pavement or roadway and the construction of a curbing.

- (s) "Publication" and "published" shall mean in-^{"Publication,"}
 sertion in a newspaper published in the munici-^{"Published."}
 pality, if there is a newspaper published therein,
 or, if there is none, then in a newspaper pub-
 lished in the county in which the municipality
 is situate.
- (t) "Sewer" shall include a common sewer and a ^{"Sewer."}
 drain.
- (u) "Sidewalk" shall include a footway and a street ^{"sidewalk."}
 crossing.
- (v) "Specially assessed" shall mean specially rated ^{"specially}
 for or charged with part of the cost of a work. ^{assessed."}
- (w) "Street" shall include a lane, an alley, a park, a ^{"Street."}
 square, a public drive, and a public place, or a
 part of any of them.
- (x) "Value" shall mean assessed value, exclusive of ^{"Value."}
 buildings, according to the last revised assess-
 ment roll of the municipality.
- (y) "Work" shall mean a work or service which may ^{"Work"}
 be undertaken as a local improvement.
- (z) "Work undertaken" shall mean a work which is ^{"Work un-}
 undertaken as a local improvement. 1 Geo. V. ^{dertaken."}
 c. 58, s. 2 (*p-aa*).

WORKS WHICH MAY BE UNDERTAKEN AS LOCAL
 IMPROVEMENTS.

3.—(1) A work of any of the characters or descriptions ^{Works which}
 hereinafter mentioned may be undertaken by the council of ^{may be effected}
 a corporation as a local improvement, that is to say: ^{as local im-}
^{provements.}

- (a) Opening, widening, extending, grading, altering
 the grade of, diverting or improving a street;
- (b) Opening or establishing a new street;
- (c) Constructing a bridge as part of a street;
- (d) Constructing, enlarging, or extending a sewer;
- (e) Paving a street;
- (f) Constructing a curbing or a sidewalk in, upon or
 along a street;
- (g) Constructing or maintaining a boulevard where a
 part of a street has been set apart for the pur-
 poses of a boulevard;
- (h) Sodding any part of and planting, maintaining
 and caring for trees, shrubs and plants upon and
 in a street;

- (i) The extension of a system of water, gas, light, heat or power works owned by the corporation, including all such works as may be necessary for supplying water, gas, light heat or power to the owners of land, for whose benefit such extension is provided.
- (j) Acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive.
- (k) Constructing, on petition only, retaining walls, dykes or breakwaters along the banks of rivers, but this clause shall only apply to a city or town. 1 Geo. V. c. 58, s. 3 (1).
- (l) In the case of cities and towns only, constructing and erecting on petition only, on any street or part of a street, equipment, plant and works for the purpose of supplying electric light or power, including standards and underground conduits and wires, to the extent to which the cost of the same exceeds the cost of the equipment, plant and works which would otherwise be provided at the expense of the corporation at large. 2 Geo. V. c. 44, s. 2; 3-4 Geo. V. c. 44, s. 2.

(2) Nothing in this section shall extend or apply to a work of ordinary repair or maintenance. 1 Geo. V. c. 58, s. 3 (2).

What works may be undertaken in connection with a sewer or pavement.

4.—(1) Where the work is the construction of a pavement, the Council, before constructing it, may make all necessary private drain connections from an existing sewer to the street line on either or both sides, and may also lay all necessary water mains and, where gas works are owned by the Corporation, all necessary gas mains, and make such alterations or renewals of water service pipes and stopcocks, and, where gas works are owned by the Corporation, of gas connections as are necessitated by the work, and, where the work is the construction of a sewer, the Council may make all necessary private drain connections to the street line on either or both sides; but the cost of a private drain connection, alteration or renewal of a water service pipe, stopcock or gas connection shall be specially assessed only upon the particular lot for or in connection with which it was constructed or affected.

To be part of work of construction.

(2) The works mentioned in subsection 1 shall be deemed part of the work of construction of the pavement or sewer in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection.

How to be assessed.

(3) The amount to be assessed against each lot in respect of a private drain connection, water service pipe or

gas connection shall be the cost thereof from the centre of the street to the street line, whether or not the sewer or water or gas main is laid in the centre of the street. 1 Geo. V. c. 58, s. 4.

5. Where a sewer has been or may hereafter be constructed, the Council, by a vote of two-thirds of all the members thereof at any general or special meeting, may undertake the construction of private drain connections from the sewer to the street line on either or both sides as a local improvement without any petition therefor, and the cost of each private drain connection shall be specially assessed upon the particular lot for or in connection with which it is constructed, and the owners of the land shall not have the right of petition provided for by section 13, and the provisions of subsection 3 of section 4 shall apply. 1 Geo. V. c. 58, s. 5.

Construction of private drain connections without petition.

6. In a township where the owners of land have constructed a work which might have been undertaken as a local improvement, the Council, upon the petition of three-fourths in number of the owners of the land to be immediately benefited by the acquisition of the work, representing at least two-thirds of the value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under the provisions of *The Municipal Act*, and the purchase money may be provided by the Council and may be assessed in like manner as if the work were a work which the Council were undertaking as a local improvement, and all the provisions of this Act shall apply as if the Council were undertaking the work so acquired as a local improvement. 1 Geo. V. c. 58, s. 6.

Purchase by township of works already constructed.

7.—(1) Where the work is the opening, widening, or extension of a street or the construction of a bridge, and the cost of the work as estimated by the engineer will exceed \$50,000, any person whose land is to be specially assessed may, within ten days after notice to him of the intention of the Council to undertake the work, give notice that he objects to the work being undertaken upon the ground that it is a work for the general benefit of the municipality or of a section or district thereof, and if such notice is given the work shall not be undertaken without the approval of "The Ontario Railway and Municipal Board."

Approval of Ont. Ry. and Municipal Bd. required in the case of certain works.

(2) If the Board, after notice to the corporation and to all persons interested and after hearing such of them as shall request to be heard, determines that for the reasons mentioned in subsection 1, or either of them, it is proper to do so the Board may withhold its approval.

Approval may be withheld.

(3) If the Board determines that the cost of the work should be borne by the corporation or by the owners of the land situate within a section or district of the municipality,

Apportionment of cost of work.

the Board may make an order so declaring, and in that event the Council may, notwithstanding the provisions of this Act, or of any by-law passed under the authority of this Act, undertake and proceed with the work at the cost of the corporation or of the section or district thereof mentioned in the order, as the case may be.

Or may direct the cost to be charged upon the abutting lots.

(4) The Board, instead of making an order under subsection 3, may direct that if the work is undertaken such part of the cost of it as the Board may deem just shall be charged upon the lots abutting directly upon the work, in accordance with the provisions of this Act and that the residue of it shall be borne by the corporation or partly by the corporation and partly by a section or district of the municipality in such proportions as the Board may direct, and if the Council undertakes the work, it shall conform with the directions of the order so made.

Special assessments to be made by the Council.

(5) The special assessment upon the lots shall not be made by the Board, but by the Council, in accordance with the provisions of this Act. 1 Geo. V. c. 58, s. 7.

PROCEDURE FOR UNDERTAKING WORK.

Methods of undertaking works.

8.—(1) A by-law may be passed for undertaking a work as a local improvement

(a) On petition, or

(b) Without petition, on the initiative of the Council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause (j) of section 3, or

(c) On sanitary grounds, as mentioned in section 10, or

(d) Without petition in the case mentioned in sections 5 and 9.

One by-law may include several works.

(2) Instead of passing separate by-laws for each work the Council may pass one by-law in respect of several works. 1 Geo. V. c. 58, s. 8.

Construction of certain works on a two-thirds vote of council without petition.

9. Notwithstanding anything to the contrary contained in this or any other Act or in any by-law of the municipality, where the Council determines and by by-law, passed at any general or special meeting by a vote of two-thirds of all the members thereof, declares that it is desirable that the construction of a curbing, pavement, sidewalk, sewer or bridge, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street or the extension of a system of waterworks, should be undertaken as a local improvement, the Council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 13. 1 Geo. V. c. 58, s. 9 (1); 2 Geo. V. c. 44, s. 3; 3-4 Geo. V. c. 44, s. 3.

10. Where the Council, upon the recommendation of the Provincial Board of Health or of the Local Board of Health of the municipality, determines and, by by-law passed at a regular or special meeting of the Council by vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer as a local improvement is necessary or desirable in the public interest on sanitary grounds, the Council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 13. 1 Geo. V. c. 58, s. 10.

11. Where it is intended to proceed under sections 5, 9 or 10 the Council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention, Form 1, to be published. 1 Geo. V. c. 58, s. 11.

12. The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half of the value of the lots liable to be specially assessed. 1 Geo. V. c. 58, s. 12.

13.—(1) Where the Council proceeds on the initiative plan, notice of the intention of the Council to undertake the work, Form 2, shall be given by publication of the notice and by service of it upon the owners of the lots liable to be specially assessed; and unless within one month after the first publication of the notice a majority of the owners representing at least one-half of the value of the lots which are liable to be specially assessed petition the Council not to proceed with it the work may be undertaken as a local improvement.

(2) The notice shall be sufficient if it designates by a general description the work to be undertaken and the street or place whereon or wherein, and the points between which the work is to be effected, and the number of the instalments by which the special assessment is to be payable.

(3) The notice may relate to and include any number of different works. 1 Geo. V. c. 58, s. 13 (1-3).

(4) The notice may be served upon the owner

(a) Personally, or

(b) By leaving it at his place of business or of residence if within the municipality, or

(c) By mailing it at a post office addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality, or

(d) If the place of business and of residence of the owner are not known, by leaving the notice with a grown-up person on the lot of the owner which is liable to be specially assessed, if there is a grown-up person residing thereon. 1 Geo. V. c. 58, s. 13 (4); 2 Geo. V. c. 44, s. 5.

Where residence, etc., unknown (5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner which is liable to be specially assessed, service upon the owner shall not be requisite.

Where residence, etc., is not in assessment roll. (6) If the place of business or of residence of the owner do not appear upon the assessment roll, the owner may be treated and dealt with as an owner whose place of business and of residence are unknown.

Proof of publication and service. (7) Publication and service of the notice may be proved by affidavit or statutory declaration and the affidavit or statutory declaration, before the passing of the by-law by which the special assessment is made to defray the cost of the work, shall be *prima facie* evidence, and after the passing of the by-law shall be conclusive evidence of the matters set forth in the affidavit or statutory declaration. 1 Geo. V. c. 58, s. 13 (5-7).

Effect of petition against work. 14.—(1) Where the Council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under the provisions of section 13, the Council shall not proceed on the initiative plan with regard to the same work for a period of two years after the presentation of the petition: Provided always that in a municipality in which a by-law passed under the provisions of section 52 is in force the prohibition contained in this section shall not prevent the Council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken.

Powers conferred by section 9 not affected. (2) Nothing in this section shall prevent the Council from exercising the power conferred by section 9. 1 Geo. V. c. 58, s. 14.

Lot of petitioner to be described. 15. There shall be set out opposite to every signature to the petition for or against a work a description of the lot of which the petitioner is the owner by its number or such other description as will enable the clerk to indentify it. 1 Geo. V. c. 58, s. 15.

Clerk to determine sufficiency of petition. 16.—(1) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced shall be final and conclusive.

(2) Where the sufficiency of a petition has been determined by the Clerk it shall be deemed to have been and to be a sufficient petition notwithstanding that changes may be made by the Court of Revision or by the Judge in the lots to be specially assessed which have the effect of increasing or reducing the number of the lots. What owners to be counted.

(3) When it is necessary to determine the value of any lot and the same cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of such lot and the value thereof as so fixed and determined shall be deemed for the purpose of this Act to be the assessed value thereof, and his determination shall be final and conclusive. Determining value of lots.

(4) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is a petitioner, he shall be deemed an owner if his ownership is proved to the satisfaction of the clerk, and if the person who appears by the assessment roll to be the owner is a petitioner his name shall be disregarded in determining the sufficiency of the petition. Owner whose name is not on roll may petition.

(5) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition, Case of joint owners.

(a) They shall be reckoned as one owner only;

(b) They shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition.

(6) The clerk, for the purpose of any inquiry pending before him under the provisions of this section, may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the County Court of the county in which the municipality lies. Witnesses.

(7) A witness, if a resident of the municipality, shall be bound to attend without payment of any fees or conduct money, and if not a resident of the municipality shall be entitled to fees and conduct money according to the County Court scale. Witness fees.

(8) Where any person complains to the Clerk that his signature to the petition was obtained by fraud, misrepresentation or duress the complaint shall be investigated and determined by a Judge of the County Court, and the Clerk shall delay certifying until he has received the finding or report of the Judge upon the complaint, and in determining as to the sufficiency of the petition the Clerk shall give effect to such finding or report. Complaints to be investigated by county judge. 1 Geo. V. c. 58, s. 16.

Petitions to be lodged with clerk.

17. A petition for or against the undertaking of a work shall be lodged with the Clerk, and shall be deemed to be presented to the Council when it is so lodged. 1 Geo. V. c. 58, s. 17.

Withdrawal of name from petition.

18. No person shall have the right to withdraw his name from, and no name shall be added to, a petition after the Clerk has certified as to its sufficiency. 1 Geo. V. c. 58, s. 18.

HOW COST OF WORK TO BE BORNE.

Frontage rate.

19.—(1) Except as in this Act is otherwise expressly provided, the entire cost of a work undertaken shall be specially assessed upon the lots abutting directly on the work, according to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost.

Items which may be included in cost.

(2) The following may be included in the cost of the work:

- (a) Engineering expenses.
- (b) Cost of advertising and service of notices.
- (c) Interest on temporary loans.
- (d) Compensation for lands taken for the purposes of the work or injuriously affected by it and the expenses incurred by the Corporation in connection with determining such compensation.
- (e) The estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them. 1 Geo. V. c. 58, s. 19.

Guarantee of work.

20. Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel, and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required. 1 Geo. V. c. 58, s. 20.

Corporation portion of cost.

21. There shall be included in the corporation's portion of the cost:—

- (a) At least one-third of the cost of a sewer having a sectional area of more than four feet; and
- (b) The entire cost of all culverts and other works in connection with a sewer or pavement which are

provided and are required for surface drainage; and

- (c) So much of the cost of a work as is incurred at street intersections. 1 Geo. V. c. 58, s. 21

22.—(1) Where the work is the construction of a sewer the Council may, by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that the remainder of the cost of such sewer shall be borne by the corporation. Apportionment of cost of sewers.

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 21, is to be included in the corporation's portion of the cost. 1 Geo. V. c. 58, s. 22. Part to be borne by corporation.

23.—(1) The Council of the corporation of a municipality in which there is not in force a by-law passed under the provisions of section 51 applicable to the work may, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the Council, provide that such part as to the Council may seem proper of the cost of every granolithic, stone cement, asphalt or brick sidewalk, or of every pavement or curbing constructed as a local improvement which otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation. Corporation may assume part of cost of sidewalk or pavement.

(2) Such by-law shall not be repealed except by vote of three-fourths of all the members of the Council. 1 Geo. V. c. 58, s. 23. By-law not to be repealed except by three-fourths vote.

24.—(1) In the case of corner lots and triangular or irregularly shaped lots situate at the junction or intersection of streets a reduction shall be made in the special assessment which otherwise would be chargeable thereon sufficient, having regard to the situation, value and superficial area of such lots as compared with the other lots, to adjust the assessment on a fair and equitable basis. Reduction of assessment of corner lots, etc.

(2) Where a lot is for any reason, wholly or in part, unfit for building purposes, a reduction shall also be made in the special assessment which otherwise would be chargeable thereon, sufficient to adjust its assessment as compared with that of the lots fit for building purposes on a fair and equitable basis. Of lots unfit for building purposes.

(3) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction, but the whole of the lot shall be charged with the special assessment as so reduced. How reduction to be made.

Reduction to
be borne by
corporation.

(4) The amount of any reduction made in the assessment of any lot under the provisions of this section shall not be chargeable upon the lots liable to be specially assessed, but shall be paid by the corporation. 1 Geo. V. c. 58, s. 24.

Assessment of
cost of side-
walk or curb.

25. Where the work undertaken is a sidewalk or curbing, only the land abutting on that side of the street upon which the work is constructed shall be specially assessed. 1 Geo. V. c. 58, s. 25.

Assessment of
non-abutting
land for cost of
certain sewers.

26.—(1) Where the work is a sewer and in order to afford an outlet for the sewage for any land not abutting directly on the work or for the drainage of it the sewer is of a larger capacity than is required for the purpose of the abutting land such other land may be specially assessed for a fair and just proportion of the cost of the work.

Method of
assessment.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed upon it in the manner provided by section 19, and that part of the cost for which such other land is to be specially assessed shall be assessed upon it in the manner provided by sections 28 and 29. 1 Geo. V. c. 58, s. 26.

Apportionment
of cost of a
bridge or the
opening, etc.,
of a street.

27.—(1) Where the work is the construction of a bridge or the opening, widening, extending, grading, altering the grade of, diverting or improving a street, and the Council is of opinion that for any reason it would be inequitable to charge the cost of the work on the land abutting directly thereon, the Council may provide for the payment by the corporation of such part of the cost, as to the Council may seem just, and so much of the residue thereof as may seem just may be specially assessed upon the land abutting directly on the work, and so much of such residue as may seem just on such other land as is immediately benefited by the work.

Method of
assessment.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 19, and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 28 and 29. 1 Geo. V. c. 58, s. 27.

Assessment of
non-abutting
land equally
benefited.

28. Where land not abutting directly upon a work is to be specially assessed, if the whole of it is equally benefited, the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage. 1 Geo. V. c. 58, s. 28.

29. Where land not abutting directly upon a work is to be specially assessed, and the whole of it is not equally benefited, such land shall be divided into as many districts or sections as there are different proportions of benefit and so that a district or section shall embrace all the land which will be benefited in the same proportion, and its proper portion of the cost shall be assigned to each district or section, and the portion of the cost to be borne by each district or section shall be specially assessed on the lots therein according to the extent of their frontage by an equal special rate per foot of such frontage. 1 Geo. V. c. 58, s. 29.

PROCEDURE FOR MAKING SPECIAL ASSESSMENT.

30.—(1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the Council shall procure to be made:

- (a) A report as to the lifetime of the work;
- (b) A report as to the reductions, if any, which ought to be made under the provisions of section 24 in respect of any lot and the aggregate amount of such reductions;
- (c) An estimate of the cost of the work;
- (d) A statement of the share or proportion of the cost which should be borne by the land abutting directly on the work and by the corporation respectively;
- (e) A report as to the number of instalments by which the special assessment should be made payable;

(2) In the case of a work part of the owners' portion of the cost of which may be specially assessed on land not abutting directly on the work, before passing the by-law for undertaking the work, in addition to procuring the reports and estimate mentioned in subsection 1, the Council shall procure to be made a further report stating:

- (a) Whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work;
- (b) If inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work and what land not abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it. 1 Geo. V. c. 58, s. 30.

Special
assessment roll
to be prepared.

31. Before a special assessment is imposed the Council shall procure to be made a special assessment roll in which shall be entered

- (a) Every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed;
- (b) Every lot which, but for the provisions of section 48, would be exempt from the special assessment and the number of feet of its frontage;
- (c) The rate per foot with which each lot is to be so assessed;
- (d) The number of instalments by which the special assessment is to be payable. 1 Geo. V. c. 58, s. 31.

How reports,
statements,
etc., to be
made.

32. The Council may provide for the making of the reports, statements, estimates and special assessment roll mentioned in section 30 and 31 in such manner and by such officer of the corporation or person as the Council may deem proper, and may do so by a general by-law applicable to all works or to any class or classes of them or by a by-law applicable to the particular work. 1 Geo. V. c. 58, s. 32.

Holding of
Court of
Revision.

33.—(1) Before a special assessment is imposed a sittings of the Court of Revision for the hearing of complaints against the proposed special assessment shall be held.

Time and
place of.

(2) Ten days' notice of the time and place of the sittings shall be given by publication, and at least fifteen days before the day appointed for the sittings a notice, Form 3, shall be mailed to the owner of every lot which is to be specially assessed. 1 Geo. V. c. 58, s. 33.

Special assess-
ment roll to be
kept open for
ten days.

34. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the Court of Revision. 1 Geo. V. c. 58, s. 34.

Statement of
cost of work
for Court of
Revision

35. A statement showing under appropriate heads the actual cost of the work, verified by the certificate of the Clerk, Assessment Commissioner or Treasurer of the municipality shall be delivered to the Chairman of the Court of Revision before the meeting of the Court. 1 Geo. V. c. 58, s. 35.

Powers
Court.

36.—(1) The Court of Revision shall have jurisdiction and power to review the proposed special assessment and to correct the same as to all or any of the following matters:

(a) Where the owners' portion of the cost is to be specially assessed against the land abutting directly on the work, as to the following matters:

- i. The names of the owners of the lots;
- ii. The frontage or other measurements of the lots;
- iii. The amount of the reduction to be made under the provisions of section 24 in respect of any lot;
- iv. As to the lots which, but for the provisions of section 48, would be exempt from special assessment;
- v. As to the lifetime of the work; and
- vi. As to the rate per foot with which any lot is to be specially assessed.

(b) Where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, in addition to the matters mentioned in clause (a), as to the lots other than those abutting directly on the work which are or will be immediately benefited by it, and as to the special assessment which such lots should respectively bear.

(c) In all cases as to the actual cost of the work.

(2) The Court of Revision shall not have jurisdiction ^{OR No power to} authority to review or to alter the proportions of the cost of ^{alter proportions of} the work which the lands to be specially assessed and the ^{cost.} corporation are respectively to bear according to the provisions of the by-law for undertaking the work. 1 Geo. V. c. 58, s. 36.

37.—(1) Where it appears to the Court of Revision that ^{Adjourned} any lot which has not been specially assessed should be speci- ^{sittings of} ally assessed, before finally determining the matter the Court ^{Court in case} shall adjourn its sittings to a future day and shall cause ^{omission to} notice, Form 3, to be given to the owner of such lot of the ^{assess certain} time and place when the adjourned sittings will be held. ^{lots.}

(2) The notice shall be mailed at least six days before the ^{Time for} time fixed for the adjourned sittings. ^{mailing notice.}

(3) If the Court of Revision determines that any such ^{Power to fix} lot ought to be specially assessed, the Court shall have juris- ^{special assess-} diction and power to fix and determine the amount of the ^{ment of lots} special assessment thereon. 1 Geo. V. c. 58, s. 37.

38. The clerk shall make such corrections in the special ^{When special} assessment roll as are necessary to give effect to the decisions ^{assessment roll} of the Court of Revision, and the roll when so corrected shall ^{be final.}

be certified by the Clerk, and when so certified, except in so far as it may be further amended on appeal to the Judge, such assessment roll and the special assessment shall be valid and binding upon all persons concerned and upon the land specially assessed, notwithstanding any defect, error or omission therein or any defect or error in the by-law for undertaking the work or in any notice given or proceeding taken or the omission of any proceeding or thing which ought to have been taken or done before the passing of the by-law for undertaking the work or thereafter down to and including the completion of such revision. 1 Geo. V. c. 58, s. 38.

Appeal to
County Judge.

39.—(1) The Council or the owner of a lot specially assessed may appeal to the Judge of the County Court from any decision of the Court of Revision.

Application
of Rev. Stat.
c. 195.

(2) The provisions of *The Assessment Act* as to appeals to the Judge shall apply to an appeal under the provisions of subsection 1.

Powers of
judge.

(3) The Judge shall have the like jurisdiction and powers as are conferred on the Court of Revision by section 36, and the provisions of section 37 shall apply where it appears to the Judge that any lot not specially assessed ought to be so assessed. 1 Geo. V. c. 58, s. 39.

BORROWING POWERS.

Temporary
loans.

40.—(1) The Council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it.

Issue of
debentures.

(2) The Council may, when the work undertaken is completed, borrow on the credit of the corporation at large such sums as may be necessary to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

Application of
Rev. Stat.
c. 192.

(3) The provisions of *The Municipal Act* as to by-laws for creating debts shall apply to by-laws passed under the authority of subsection 2, except that it shall not be necessary

(a) That the by-law be submitted to or receive the assent of the electors.

(b) That any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it.

Rev. Stat.
c. 192.

(c) To comply with the provisions of subsections 5 and 7 of section 263 of *The Municipal Act*.

and except that the debentures, save as provided by section 42, shall be payable within the lifetime of the work.

(4) The special rates imposed for the owners' portion of the cost shall form a special fund for the payment of the debentures issued under the authority of subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose.

Special rates for owner's portion to form special fund.

(5) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of so much of the debentures as represent the owners' portion of the cost the Council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate, but this shall not relieve the land specially assessed from the special rate thereon.

General rate to meet deficiency in special rate.

(6) The amount borrowed under the provisions of subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of section 288 of *The Municipal Act*.

Owner's portion not to be deemed part of debenture debt of corporation. Rev. Stat. c. 192.

(7) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken the Council may include the same in the estimates of the year. 1 Geo. V. c. 58, s. 40.

Corporation's portion may be included in yearly estimates.

41.—(1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 40 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law, hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Consolidation of by-laws

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

Recitals.

(3) It shall not be necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose. 1 Geo. V. c. 58, s. 41.

Rates not to be imposed by the consolidating by-law.

42.—(1) The Council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the Council shall prescribe, but not so as to extend beyond the lifetime of the work unless the work is of the class prescribed in clause (j) of section 3, in which case the annual instalments may extend over a period of not more than 40 years.

Term of annual instalments of special assessment.

Interest.

(2) In fixing the amount of the annual instalments a sum sufficient to cover the interest shall be added.

Commutation
of special rates.

(3) The Council may also either by general by-law or by a by-law applicable to the particular work prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates imposed thereon. 1 Geo. V. c. 58, s. 42.

Application
of Rev. Stat.
c. 195, ss. 94-97.

43. The provisions of sections 94 to 97 and the other provisions of *The Assessment Act* as to the collection and recovery of taxes, and the proceedings which may be taken in default of payment thereof, shall apply to the special assessments and the special rates imposed for the payment of them. 1 Geo. V. c. 58, s. 43.

Where special
assessments
irregular new
assessments
may be made.

44.—(1) If a debt has been incurred by the corporation for or in respect of a work undertaken before the passing of this Act and after the incurring of the debt, the special assessment for the work is found or adjudged to be invalid or the by-law for borrowing money to defray the cost of the work is quashed or set aside either wholly or in part by reason of any irregularity or illegality in making such assessment or in passing such by-law, the Council shall cause a new assessment to be made or may pass a new by-law when and so often as may be necessary to provide the money required to be raised to discharge the debt so incurred.

Where by-law
quashed Court
may direct
passing of new
by-law.

(2) In the case of a work undertaken after the passing of this Act, if the special assessment in respect of it has become confirmed under the provisions of section 38, no by-law for borrowing money to defray the cost of the work or for imposing the special assessment shall be quashed, set aside or adjudged to be invalid by reason of its illegality or of any defect in it, but the Court in which any proceeding for quashing, setting aside or declaring to be invalid the by-law is taken shall on such terms and conditions as to costs and otherwise as may be deemed proper direct the Council to amend or to repeal such by-law and, where a repealing by-law is directed, to pass a new by-law in proper form in lieu of the repealed by-law, and it shall be the duty of the Council to pass such by-law or by-laws accordingly.

Liabilities
incurred to be
binding.

(3) Every liability or obligation incurred and every debenture issued by the corporation under the authority of any such defective or illegal by-law shall be as effectual and as binding as if the amending or new by-law directed to be passed had been passed and was in force at the time such liability or obligation was incurred or such debenture was issued.

Where Court
of its own
motion directs
passing of new
by-law.

(4) Although no proceeding has been taken to quash, set aside or declare invalid the by-law the Council may of its own motion and if required by any person to whom it has incurred any liability on the faith of the by-law shall pass

such amending or new by-law as may be necessary to make effectual and binding the liability so incurred and any debt-ure issued under the authority of such by-law, and the provisions of subsection 3 as to the effect of an amending or new by-law shall apply to any by-law so passed. 1 Geo. V. c. 58, s. 44.

REPAIR OF WORK.

45.—(1) After a work undertaken has been completed, it shall during its lifetime be kept in repair by and at the expense of the corporation. Maintenance and repair of work by corporation.

(2) Nothing in this Act shall relieve the corporation from any duty or obligation to keep in repair the highways under its jurisdiction to which it is subject either at common law or under the provisions of *The Municipal Act*, or otherwise, or impair or prejudicially affect the rights of any person who is damaged by reason of the failure of the corporation to discharge such duty or obligation. 1 Geo. V. c. 58, s. 45. General duty to repair not affected. Rev. Stat. c. 192.

46.—(1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so does not put the work in repair, a Judge of the Supreme Court, or the Judge of the County Court of the County in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair. Compelling corporation to repair.

(2) The Judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may deem proper. Determination as to necessary repairs.

(3) Where a person under whose supervision the repairs are to be made is appointed, the Judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money. Remuneration of person supervising.

(4) The order shall have the same effect and may be enforced in like manner as a peremptory mandamus. Effect of order.

(5) If the corporation does not comply with the order of the Judge, in addition to any other remedy to which the applicant for the order may be entitled, the Judge may authorize the repairs to be made by the applicant, and if made by him the cost thereof shall be ascertained and determined by the Judge, and when so ascertained and determined payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money. When repairs may be made by applicant and payment therefor.

Appeal to
Divisional
Court.

(6) An appeal shall lie to a Divisional Court from any order made under the provisions of this section, and the procedure where the appeal is from an order of a Judge of the Supreme Court shall be the same as on an appeal from an order made in an action in the Supreme Court, and if the appeal is from an order of a Judge of a County Court the same as on an appeal from an appealable order made in an action in the County Court. 1 Geo. V. c. 58, s. 46.

ASSESSMENT OF LAND EXEMPT FROM TAXATION.

Certain lands
exempt from
taxation liable
to be specially
assessed.

47. Land on which a church or place of worship is erected or which is used in connection therewith, and the land of a university, college or seminary of learning, whether vested in a trustee or otherwise, which is exempt from taxation under *The Assessment Act*, except schools maintained in whole or in part by a legislative grant or a school tax, shall be liable to be specially assessed. 1 Geo. V. c. 58, s. 47.

Rev. Stat.
c. 195.

Land exempt
from taxation
for local im-
provements
to be
specially
assessed.

48. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon which fall due while such land remains exempt shall not be collected or collectable from the owner thereof but shall be paid by the corporation. 1 Geo. V. c. 58, s. 48.

STREET CLEANING, ETC.

Cleaning,
watering,
lighting
streets, etc.

49.—(1) The council may by by-law provide that thereafter the annual cost of cleaning, clearing of snow and ice, watering, oiling, sweeping, lighting, light supplied in excess of that supplied at the expense of the corporation at large, cutting grass and weeds and trimming trees and shrubbery on any street, or any one or more of such services shall be specially assessed upon the land abutting directly on such street according to the frontage thereof, and the foregoing provisions of this Act shall not apply to such services. 1 Geo. V. c. 58, s. 49 (1); 2 Geo. V. c. 44, s. 6.

Application to
defined areas.

(2) Instead of naming the particular street or streets the by-law may apply to all the streets in a defined section or sections of the municipality.

Special rate.

(3) Where the council so provides the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes.

Duration of
by-law.

(4) The by-law shall remain in force from year to year until repealed. 1 Geo. V. c. 58, s. 49 (2-4).

50.—(1) Where a highway forms the boundary between two or more municipalities although it lies wholly within one or partly within two or more of them, the corporations of the municipalities may agree Power to construct works on boundary lines.

(a) to undertake in respect of such highway or any part of it any work or service which may be undertaken as a local improvement under this Act;

(b) as to the council by which the work or service shall be undertaken;

(c) as to whether the corporations' portion of the cost shall be provided for by borrowing or shall be included in the estimates of the year; and

(d) as to the proportions in which the corporations' portion of the cost shall be borne by such corporations respectively.

(2) The Council of the municipality which according to the agreement is to undertake the work or service, herein after called the initiating council, shall have all the powers and perform all the duties in respect of it which may be exercised or are to be formed by the council of a municipality which undertakes a work or service as a local improvement under this Act, and the highway shall, for the purposes of the work or service, be deemed to lie wholly within and to be under the exclusive jurisdiction of the initiating council. Powers and duties of initiating council.

(3) The clerk of the initiating council shall forthwith, after the passing of its by-law imposing the special rates defray the owners' portion of the cost, deliver or transmit by registered post to the clerk of any municipality in which is situate any land upon which a special rate has been imposed a copy of the by-law certified under his hand and the seal of the corporation to be a true copy. Certified copies of by-law to be sent to clerks of other municipalities.

(4) The rates required by the by-law to be levied and collected in any year upon land in any municipality other than that by the council of which the by-law is passed shall be collected by the council of such municipality in like manner as if such rates had been imposed by that council. Collection of rates in other municipalities.

(5) The corporation of each of the municipalities other than that by the council of which the work or service is undertaken shall pay to the last mentioned corporation the sums which are to be levied and collected in that year under the next preceding subsection, and such payment shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them. Payment over to initiating council.

Payment not
to relieve
land assessed.

(6) Such payment shall not relieve any land specially assessed from the special rate thereon, but it shall remain liable for the special rate until it is paid.

Payment over
where corpora-
tions' part
included in
estimates.

(7) Where the agreement provides that the corporations' portion of the cost shall be included in the estimates of the year, the corporation of each of the municipalities, other than that by the council of which the work or service is undertaken, shall pay to that corporation when the amount of the corporations' portion of the cost is finally determined its share or portion of such cost, and the amount so paid shall be provided for in the estimates for the then current year of the council of the corporation which is to pay it.

Where corpora-
tions' portion
met by issue of
debentures.

(8) Where the agreement provides that the amount required to defray the corporations' portion of the cost is to be borrowed, the corporation of each of the municipalities, except that by the council of which the work or service is undertaken, shall in each year during the currency of the debentures issued for the money borrowed pay to that corporation the same proportion of the principal and the interest payable in that year as under the agreement it is to bear of the corporations' portion of the cost, and the amount which the by-law for borrowing the money requires to be raised in that year shall be reduced by the sum so paid.

Maintenance
and repair.

(9) The corporations shall bear the cost of keeping the work in repair in the proportions in which the cost of the work is to be borne by them. 3-4 Geo. V. c. 44, s. 4.

SPECIAL PROVISIONS AS TO TOWNSHIPS, VILLAGES, ETC.

Waterworks
and fire
engines.

51.—(1) The council of a township or village may undertake as a local improvement

- (a) The construction of waterworks;
- (b) The purchase of fire engines and other appliances for the purpose of fire protection;
- (c) The laying of mains and other appliances to connect with any existing system of waterworks whether owned by the corporation or by any other person. 1 Geo. V. c. 58, s. 50 (1); 3-4 Geo. V. c. 44, s. 5.

Assessment of
owners' part in
land in
defined areas.

(2) The council, by the by-law for undertaking the work, may provide that the owners' portion of the cost shall be specially assessed against the land in any defined section or sections of the municipality, and that the annual cost of managing and maintaining the work shall be assessed against and levied upon such land. 1 Geo. V. c. 58, s. 50 (2).

Trustees for
managing fire
engines and
appliances.

(3) In the case of the purchase of fire engines and other appliances for the purpose of fire protection the council may, by by-law, provide for

- (a) The election of a board of three trustees, and the time and manner of holding the election;
- (b) The term of office of such trustees;
- (c) Filling vacancies in such board;
- (d) The election of an auditor;
- (e) The appointment of a second auditor by such board; and
- (f) The duties of such auditors.

1 Geo. V. c. 58, s. 50 (3); 3-4 Geo. V. c. 44, s. 5.

(4) The board of trustees shall have the care, control and management of such fire engines and appliances. Care and control of fire engines, etc.

(5) No person shall be entitled to vote at the election of such trustees unless he is the owner of land to be specially assessed under the provisions of subsection 2 and is also qualified to vote at municipal elections. 1 Geo. V. c. 58, s. 50 (4-5). Qualification of voters for election of trustees.

ADOPTION OF LOCAL IMPROVEMENT SYSTEM.

52.—(1) The council of a corporation by by-law passed with the assent of the municipal electors, in accordance with the provisions of *The Municipal Act*, may provide that all works which may be undertaken as local improvements, or any one or more classes or descriptions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise. Adoption of local improvement system. Rev. Stat. c. 192.

(2) The by-law may be repealed but only by a by-law passed with the like assent. 1 Geo. V. c. 58, s. 51. Repeal of by-law.

MISCELLANEOUS.

53. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid, shall not, as between a vendor and a purchaser, or as respects a covenant against incumbrances, or for the right to convey, or for quiet possession free from incumbrances, be deemed to be an incumbrance upon the land upon which the special rate is charged or chargeable. 1 Geo. V. c. 58, s. 52. Special rates and covenant against incumbrances.

54. Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council. 1 Geo. V. c. 58, s. 53. When work may be completed.

55. The Ontario Railway and Municipal Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the Municipal Board may prescribe forms.

provisions of this Act, and every by-law, notice or other proceeding which is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto; but the use of such forms shall not be obligatory. 1 Geo. V. c. 58, s. 54.

FORM 1.

Section 11.

Take notice that

1. The Council of the Corporation of the _____ of _____ intends to construct as a local improvement (*describe the work*) on (or in) _____ street, between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$ _____, of which \$ _____ is to be paid by the Corporation. The estimated special rate per foot frontage is _____. The special assessment is to be paid in _____ annual instalments.

3. A petition against the work will not avail to prevent its construction.

Dated.

Clerk.

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.)

FORM 2.

Section 13.

Take notice that

1. The Council of the Municipal Corporation of the _____ of _____ intends to construct (*describe the work*) on (or in) _____ street between (*describe the points between which the work is to be constructed*) as a local improvement and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$ _____, of which \$ _____ is to be paid by the Corporation, and the estimated special rate per foot frontage is _____. The special assessment is to be paid in _____ annual instalments.

3. Persons desiring to petition against undertaking the work must do so on or before the _____ day of _____ 19 _____.

Dated

Clerk.

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.)

FORM 3.

Sections 33 (2) and 37.

Take notice that

1. The Council of the Corporation of the _____ of _____ has constructed as a local improvement (*describe the work*) on (or in) _____ street between (*describe the points between which the work has been constructed*).

2. The cost of the work is \$ _____, of which \$ _____ is to be paid by the Corporation. The special rate per foot frontage is _____. The special assessment is to be paid in _____ annual instalments.

3. The estimated lifetime of the work is _____ years.

4. A Court of Revision will be held on the _____ day of _____ 19____, at _____ o'clock at the (*insert place of meeting*) for the purpose of hearing complaints against the proposed assessments or the accuracy of frontage measurements and any other complaint which persons interested may desire to make and which is by law cognizable by the Court.
or (where the Court of Revision proceeds under section 37).

4. You are served with this notice because the Court of Revision is of the opinion that your lot though not specially assessed should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sittings of the Court will be held on the _____ day of _____ 19____, at _____ o'clock at the (*insert place of meeting*) when the matter will be determined by the Court.

Dated _____

Clerk.

{Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.}

CHAPTER 194.

An Act respecting Surveys and Plans of Land in certain Cities and their Suburbs.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The City and Suburbs Plans Act*. 2 Geo. V. c. 43, s. 1.

Plan of proposed survey and subdivision to be submitted to Ontario Railway and Municipal Board.

2.—(1) Where any person is desirous of surveying and subdividing into lots, with a view to the registration of a plan of the survey and subdivision, any tract of land lying within or within five miles of a city having a population of not less than 50,000 he shall submit a plan of the proposed survey and subdivision to The Ontario Railway and Municipal Board for its approval. 2 Geo. V. c. 43, s. 2.

Plan to show boundaries, etc.

(2) Such plan shall show the boundaries of the land owned by such person and also of the part thereof proposed to be subdivided and shall be certified by an Ontario Land Surveyor. 3-4 Geo. V. c. 45, s. 1.

Board may require changes.

3.—(1) The Board shall have authority before approving of the proposed plan to require such changes to be made in it as the Board may deem proper as to

- (a) The number and width of the roads or streets;
- (b) The direction in which the roads and streets are to run and their location; and
- (c) The size and form of the lots.

Minimum width of roads and streets.

(2) Nothing in clause (a) shall authorize the laying out of any road or street less than 66 feet in width. 2 Geo. V. c. 43, s. 3.

What to be considered by Board in coming to its decision.

4. In determining as to the suitability of the proposed plan, or as to the desirability of any change in it, the Board, where the land lies within the city, shall have regard to making the subdivision and roads and streets and their location and width, and the direction in which they are to run, conform as far as practicable with any general plan which has been adopted or approved by the council of the city in accordance with which it is contemplated that the city and suburbs shall be laid out or the re-arrangement of the streets

and thoroughfares shall be effected; and where the land is situate without the limits of the city the Board shall have regard to

- (a) The proximity of the land to the city;
- (b) The probability of the limits of the city being extended so as to include it;
- (c) The securing of driveways and adequate thoroughfares connecting the city and the outlying districts;
- (d) Making the subdivision and the roads and streets and their location, and width, and the direction in which they are to run conform as far as practicable with any plan so adopted or approved, or if no such plan has been adopted or approved with the plan on which that part of the city which lies nearest to the land is laid out. 2 Geo. V. c. 43, s. 4.

5.—(1) No plan of any such land shall be registered unless it has been approved by the Board and a certificate of its approval signed by the Chairman or a member of the Board or the Secretary is endorsed on the plan, and no lot laid down on a plan not so approved shall be sold or conveyed by a description containing any reference to the lot as so laid down or to such plan. 2 Geo. V. c. 43, s. 5.

Approval of
plan and
certificate
before sale.

(2) Forthwith after the approval of a plan by the Board the person submitting the same shall furnish a copy thereof as approved and certified by the Board to the clerk of the corporation of the city. 3-4 Geo. V. c. 45, s. 2.

Copy of plan to
be sent to city
clerk.

6.—(1) Notice of an application to the Board for its approval of a plan shall be given to the corporation of the municipality in which the land is situate and to the corporation of the city, and all parties interested shall be entitled to be heard and may be represented by counsel at the hearing of the application.

Notice of
Application
for approval
of plan to be
given.

(2) A copy of the plan shall accompany such notice. 2 Geo. V. c. 43, s. 6.

Copy of plan
to be furnished.

7.—(1) Objections to the plan shall be stated in writing and be filed with the Secretary of the Board within twenty-one days after delivery of the notice and plan.

Objections
to plan.

(2) If no objection is made within that period the applicant shall be entitled to have the plan certified as approved unless the Board of its own motion otherwise directs. 2 Geo. V. c. 43, s. 7; 3-4 Geo. V. c. 18, s. 37.

Where no
objection
made.

Sittings of
the Board.

8. Sittings of the Board shall, if required by the Council of the Municipality objecting to the plan, take place at such time and place in the City nearest to the land as the Board, by notice to the applicant and to the Clerk of the Municipality requesting the same appoints. 2 Geo. V. c. 43, s. 8.

CHAPTER 195.

An Act respecting Municipal Taxation.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY PROVISIONS.

1. This Act may be cited as *The Assessment Act*. 4 Edw. short title.
VII. c. 23, s. 1.

2. In this Act

- | | |
|---|--|
| (a) "County" shall include district; | Interpretation.
"County." |
| (b) "County Council" shall include provisional county council; | "County Council." |
| (c) "County Court" shall include district court; | "County Court." |
| (d) "County Judge" shall include district judge; | "County Judge." |
| (e) "Income" shall mean the annual profit or gain or gratuity whether ascertained and capable of computation as being wages, salary, or other fixed amount or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business or calling directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade, manufacture or business, as the case may be; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and also profit or gain from any other source; | "Income." |
| (f) "Insurance Company" shall mean any company or friendly society or other corporation transacting business within Ontario any class of insurance to which <i>The Ontario Insurance Act</i> applies or may hereafter be made applicable by any general or special Act of this Legislature; | "Insurance Company."
Rev. Stat. c. 183. |
| (g) "Judge of the County Court" shall include a junior judge, a deputy judge and a judge authorized to sit or act for a judge of the County Court; | "Judge of the County Court." |

"Land."

(h) "Land," "Real Property" and "Real Estate" shall include;

1. Land covered with water;
2. All trees and underwood growing upon land;
3. All mines, minerals, gas, oil, salt, quarries and fossils in and under land;
4. All buildings, or any part of any building, and all structures, machinery and fixtures, erected or placed upon, in, over, under, or affixed to, land;
5. All structures and fixtures erected or placed upon, in, over, under, or affixed to any highway, lane, or other public communication or water; but not the rolling stock of any railway, electric railway, tramway or street railway;

"Last revised assessment roll."

(i) "Last revised assessment roll" shall mean the last revised assessment roll of a municipality; and an assessment roll shall be deemed to be finally revised and corrected when it has been so revised and corrected by the Court of Revision, or by a Judge of the County Court on appeal as by this Act provided, or when the time within which appeal may be made has elapsed;

"Loan Company."
Rev. Stat.
c. 184.

(j) "Loan Company" shall mean a "Loan Corporation" within the meaning of *The Loan and Trust Corporations Act*;

"Municipality."

(k) "Municipality" shall mean and include a city, town, incorporated village or township, but not a county;

"Tenant."

(l) "Tenant" shall include occupant and the person in possession other than the owner;

"Town,"
"Village."

(m) "Town" and "Village" shall mean respectively incorporated town and village;

"Township"

(n) "Township" shall include a union of townships;

"Trust Company."
Rev. Stat.
c. 184.

(o) "Trust Company" shall mean a trust company within the meaning of *The Loan and Trust Corporations Act*.

"Voters' list."
Rev. Stat. c. 6.

(p) "Voters' list" shall mean the alphabetical list referred to in *The Ontario Voters' Lists Act*.
4 Edw. VII. c. 23, s. 2; 3-4 Geo. V. c. 46, s. 2.

All taxes to be levied equally upon all assessments.

3. All municipal, local or direct taxes or rates shall where no other express provision is made be levied upon the whole of the assessment for real property, income and business or other assessments made under this Act, according to the

amounts assessed in respect thereof, and not upon any one or more kinds of property or assessment or in different proportions. 4 Edw. VII. c. 23, s. 3.

4. Wherever in *The Municipal Act*, or in any other general or special Act of this Legislature or in any by-law passed under any such Act, the yearly rates or any special rate are expressly or in effect directed or authorized to be levied upon all the rateable property of the municipality for any municipal or school purpose, such rates shall be calculated at so much in the dollar upon the total assessment of the municipality and shall be calculated and levied upon the whole of the assessment for real property, income and business or other assessments made under this Act. 4 Edw. VII. c. 23, s. 4.

Rateable property, what to include. Rev. Stat. c. 192.

5. All real property in Ontario and all income derived either within or out of Ontario by any person resident there-in, or received in Ontario by or on behalf of any person resident out of the same shall be liable to taxation, subject to the following exemptions:—

Taxable property and exemptions.

1. The interest of the Crown in any property, including property held by any person in trust for the Crown, or in trust for any tribe or body of Indians.

Interest of the Crown in any property.

2. Every place of worship and land used in connection therewith and every churchyard, cemetery or burying ground.

Churches, etc.

3. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a university, high school, public or separate school, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, but not if otherwise occupied. 4 Edw. VII. c. 23, s. 5, pars. 1-3; 10 Edw. VII. c. 88, s. 1 (1).

Public educational institutions.

4. The buildings and grounds of, and attached to, or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic, religious, or educational purposes, the whole profits from which are devoted or applied to such purposes only, but such grounds and buildings shall be exempt only while actually used and occupied by such seminary. 10 Edw. VII. c. 88, s. 1 (2).

Seminaries of learning.

5. Every city or town hall, and every court house, gaol, lock-up and public hospital receiving aid under *The Hospitals and Charitable Institutions Act*, with the land attached thereto but not land of a public hospital when occupied by any person as tenant or lessee. 4 Edw. VII. c. 23, s. 5, par 4; 8 Edw. VII. c. 50, s. 1.

City and town halls, etc. Rev. Stat. c. 309.

6. Every highway, lane or other public communication and every public square. 4 Edw. VII. c. 23, s. 5, par. 5.

Highways, etc.

Municipal
property.

7. The property belonging to any county or municipality or vested in or controlled by any public commission wherever situate and whether occupied for the purposes thereof or unoccupied; but not when occupied by a tenant or lessee. 4 Edw. VII. c. 23, s. 5, par. 6; 3-4 Geo. V. c. 46, s. 3.

Public parks.

8. The property belonging to any municipality, and in use as a public park, whether situate within the municipality or in an adjacent municipality.

Industrial
farm, house
of refuge,
etc.

When property
of charitable
institution to
be exempt.

9. Every industrial farm, house of industry, house of refuge, orphan asylum, and every boys' or girls' or infants' home or other charitable institution conducted on philanthropic principles and not for the purpose of profit or gain, and every house belonging to a company for the reformation of offenders, and the land belonging to or connected with the same; but not when occupied by a tenant or lessee. 4 Edw. VII. c. 23, s. 5, par. 9; 1 Geo. V. c. 59, s. 1.

Children's
Aid Societies.
Rev. Stat.
c. 231.

10. The property of any children's aid society incorporated under *The Children's Protection Act of Ontario*, whether held in the name of the society or in the name of a trustee or otherwise, if used exclusively for the purposes of and in connection with the society.

Income
of Friendly
Societies.

11. The income from the surplus funds of a Registered Friendly Society.

Scientific or
literary insti-
tutions, etc.

12. The property of every public library and other public institution, literary or scientific, and of every agricultural or horticultural society or association, to the extent of the actual occupation of such property for the purposes of the institution or society.

Exhibition
Buildings of
companies.

13. The land of every company formed for the erection of exhibition buildings to the extent to which the council of the municipality in which such land is situate consents that it shall be exempt.

Official
income of
Governors.

14. The official income of the Governor-General of Canada, and the official income of the Lieutenant-Governor of Ontario.

Income of
officers, etc.,
on full pay.

15. The full or half-pay of any officer, non-commissioned officer or private of His Majesty's regular Army or Navy; and any pension, salary, gratuity or stipend derived by any person from His Majesty's Treasury, and the income of any person in such Naval or Military service, on full pay, or otherwise in actual service.

Income from
farms.

16. The income of a farmer derived from his farm. 4 Edw. VII. c. 23, s. 5, pars. 10-15.

Machinery.

17. All fixed machinery used for manufacturing or farming purposes, including the foundations on which the same rests; but not fixed machinery used, intended or required for the production or supply of motive power including

boilers and engines, gas, electric and other motors, nor machinery owned, operated or used by a railway company or by a person having the right, authority or permission to construct, maintain or operate within Ontario in, under, above, on or through any highway, lane or other public communication, public place or public water, any structure or other thing, for the purposes of a bridge, tramway or street railway, or for the purpose of conducting steam, heat, water, gas, oil, electricity, or any property, substance, or product capable of transportation, transmission or conveyance for the supply of water, light, heat, power, or other service. 4 Edw. VII. c. 23, s. 5, par. 16; 10 Edw. VII. c. 88, s. 1 (3); 1 Geo. V. c. 59, s. 2.

18. The dividends or income from stock held by any person in an incorporated company, the income of which is liable to assessment in Ontario. Income from stock in companies.

19. The dividends or income from the stock or shares held by any person in a toll road. 4 Edw. VII. c. 23, s. 5, pars. 17, 18. Toll road stock.

20. The annual income derived from personal earnings or from any pension, gratuity, or retiring allowance in respect of personal services by any person assessable directly in respect of income under this Act to the amount of \$1,500 where such person is resident in a city or town, or to the amount of \$1,200 where such person is resident in any other municipality, if such person is a house-holder in the municipality and assessed as such, or being the head of a family occupies with his family any portion of a dwelling house, although not assessed therefor, and the annual income derived from personal earnings or from any pension, gratuity or retiring allowance in respect of personal services of every person not being such house-holder or head of a family to the amount of \$600 where he is resident in a city or town, and to the amount of \$400 where he is resident in any other municipality, and the income of any person derived from any investment, or from money on deposit in any bank or other financial institution or loaned upon mortgages, promissory notes or other securities if such income does not exceed \$400, and the income of such person from all sources does not exceed \$400. 3-4 Geo. V. c. 46, s. 4. Exemption on income.

21. Rent or other income derived from real estate, except interest on mortgages. 4 Edw. VII. c. 23, s. 5, par. 20. Rental of real estate, etc.

6. The exemptions provided for by section 5 shall be subject to the provisions of *The Local Improvement Act* as to the assessment for local improvements of land, which would otherwise be exempt from such assessment under that section. 4 Edw. VII. c. 23, s. 6; 8 Edw. VII. c. 50, s. 2. Assessments for local improvements. Rev. Stat. c. 193.

Exemption of certain officers of Superior Courts.

7. The exemption to which certain officers connected with the Superior Courts were, at the time of their appointment, and on the 5th day of March, 1880, entitled by Statute, in respect of their salaries, shall continue as to such officers only as were appointed before that date. 4 Edw. VII. c. 23, s. 7.

Assessment of persons for exempted income at request.

8.—(1) Where any person is entitled by law to exemption from assessment in respect of income, he may, upon making an affidavit, Form 1, require his name to be entered upon the assessment roll for such income, for the purpose of being entitled to vote at municipal elections; and upon such affidavit being delivered to the assessor at any time before the day fixed for the return of his roll, it shall be the duty of the assessor to enter the name of such person on the roll; and such income shall be liable to taxation like other assessable income.

(2) Such affidavit may be made before the assessor or as provided in section 228. 4 Edw. VII. c. 23, s. 8.

Assessment of land after transfer or cesser of exemption.

9.—(1) Whenever a transfer is made of any land theretofore exempt from taxation under section 5, to some person not thereafter entitled to such exemption, or whenever land used for some purpose which would entitle it to exemption under that section ceases to be so used, or whenever the period for which any land is declared to be exempt from taxation under any statute or by-law expires, such land shall immediately be liable for so much of the taxes as it would have been liable for thereafter, if it had not been exempt.

Special provision where assessment roll completed.

(2) If the assessment for such municipality or the ward or part thereof where such land is situate has been completed before such transfer, cesser of user or expiration of exemption, or so far completed that the same cannot be assessed in the usual manner, the assessor or assessment commissioner shall assess the land as though the assessment were not completed, and the person assessed therefor shall have the right to appeal against such assessment within four days after receiving notice thereof; and if he appeals therefrom, all the provisions of this Act as to appeals to or from the Court of Revision shall apply; and thereafter such person shall be liable for the taxes thereon at the rate fixed for such year as though his name and the description of the land and the value thereof and other particulars were inserted in the usual way.

Not to apply after rate of taxation for year fixed.

(3) This section shall not apply to enable any taxes for the current year to be collected upon any such land after the by-law fixing the rate of taxation for such year has been passed. 4 Edw. VII. c. 23, s. 9.

Business assessment.

10.—(1) Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of any business mentioned or described in this section shall be

assessed for a sum to be called "Business Assessment" to be computed by reference to the assessed value of the land so occupied or used by him, as follows:—

- (a) Every person carrying on the business of a distiller for a sum equal to 150 per cent. of the assessed value.
- (b) Every person carrying on the business of a brewer for a sum equal to 75 per cent. of the assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied and used by him as a malting house and for a sum equal to 60 per cent. of the assessed value as to such last mentioned portion. 4 Edw. VII. c. 23, s. 10 (1) (*a-b*).
- (c) Every person carrying on the business of a wholesale merchant, of an insurance company, a loan company or a trust company, as defined by this Act, or of an express company carrying on business on or in connection with a railway or steamboats or sailing or other vessels or of a land company, or of a loaning land corporation, or of a bank or a banker, or of any other financial business for a sum equal to 75 per cent. of the said assessed value. 4 Edw. VII. c. 23, s. 10 (1) (*c*); 10 Edw. VII. c. 88, s. 3.
- (d) Subject to the provisions of clause (*i*) every person carrying on the business of a manufacturer for a sum equal to 60 per cent. of the assessed value; and a manufacturer shall not be liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such land. 4 Edw. VII. c. 23, s. 10 (1) (*d*); 10 Edw. VII. c. 88, s. 6 (2).
- (e) Every person carrying on the business of what is known as a departmental store or of a retail merchant dealing in more than five branches of retail trade or business in the same premises or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000, or of a coal or wood or lumber dealer, lithographer, printer or publisher, except the publisher of a newspaper, or the business of selling, bartering or trafficking in fermented, spirituous or other liquors in any premises in respect of which a shop license has been granted, for a sum equal to 50 per cent. of the assessed value; but in cities having a population of not less than 100,000 coal dealers shall be assessed for a sum equal to 30 per cent. of the

assessed value. 4 Edw. VII. c. 23, s. 10 (1) (e); 10 Edw. VII. c. 88, ss. 4 (1), 5 (1).

- (f) Every person practising or carrying on business as a barrister, solicitor, notary public, conveyancer, physician, surgeon, oculist, aurist, medical electrician, dentist, veterinarian, civil, mining, consulting, mechanical or electrical engineer, surveyor or architect and, subject to subsection 6, every person carrying on a financial or commercial business or any other business as agent only, for a sum equal to 50 per cent. of the said assessed value; but where a person belonging to any class mentioned in this clause occupies or uses land partly for the purposes of his business and partly as a residence 50 per cent. of the assessed value of the land occupied or used by him shall for the purpose of the business assessment be taken to be the full assessed value of the land so occupied or used. 4 Edw. VII. c. 23, s. 10 (1) (h); 6 Edw. VII. c. 36, s. 3.
- (g) Every person carrying on business as the publisher of a newspaper in a city, for a sum equal to 35 per cent., and in any other municipality for a sum equal to 25 per cent. of the assessed value. 10 Edw. VII. c. 88, s. 5 (2).
- (h) Every person carrying on the business of a retail merchant in cities having a population of 50,000 or over for a sum equal to 25 per cent. of the assessed value; in other cities and towns having a population of 10,000 or over for a sum equal to 30 per cent. of the assessed value; and in all other municipalities for a sum equal to 35 per cent. of the assessed value. 4 Edw. VII. c. 23, s. 10 (1) (g).
- (i) Every person carrying on the business of a flour miller in a mill producing on an average less than 50 barrels a day, for a sum equal to 35 per cent. of the assessed value. 10 Edw. VII. c. 88, s. 6 (1).
- (j) Every person carrying on the business of a photographer, or of a theatre, concert hall, or skating rink, or other place of amusement, or of a boarding stable, or a livery, or the letting of vehicles or other property for hire, or of a restaurant, eating house, or other house of public entertainment, or a hotel in respect of which a tavern license has been granted, or any business not before in this section or in clause (k) specially mentioned, for a sum equal to 25 per cent. of the assessed value. 4 Edw. VII. c. 23, s. 10 (1) (h); 6 Edw. VII. c. 36, s. 2.

(k) Every person carrying on the business of a telegraph or telephone company, or of an electric railway, tramway, street railway or incline railway, or of the transmission of oil or water, or of steam, heat, gas, or electricity for the purposes of light, heat or power, for a sum equal to 25 per cent. of the assessed value of the land (not being a highway, lane, or other public communication or public place or water or private right of way), occupied or used by such person, exclusive of the value of any machinery, plant or appliances erected or placed upon, in, over, under or affixed to such land. 4 Edw. VII. c. 23, s. 10 (1) (i).

(2) Every proprietary or other club in which meals or ^{Clubs} spirituous or fermented liquors are furnished, whether to members or others, shall be liable to a business assessment for a sum equal to 25 per cent. of the assessed value of the land occupied or used for the purposes of the club. 10 Edw. VII. c. 88, s. 4 (2).

(3) No person shall be assessed in respect of the same pre-^{Persons carrying on more than one kind of business.}mises under more than one of the clauses of subsection 1, and where any person carries on more than one of the kinds of business mentioned in that subsection on the same premises, he shall be assessed by reference to the assessed value of the whole of the premises under that one of those clauses in which is included the kind of business which is the chief or preponderating business of those so carried on by him in or upon such premises. 4 Edw. VII. c. 23, s. 10 (2).

(4) Where the amount of the assessment of any person ^{Minimum assessment.} assessable under this section would under the foregoing provisions be less than \$250, he shall be assessed for the sum of \$100. 4 Edw. VII. c. 23, s. 10 (3); 6 Edw. VII. c. 36, s. 4.

(5) Where any person mentioned in subsection 1 occupies or ^{Where land used partly for business and partly for residence.} uses land partly for the purpose of his business and partly for the purpose of a residence he shall be assessed in respect of the part occupied for the purpose of his business only: but this provision shall not apply to persons assessed under clause (f) of subsection 1. 4 Edw. VII. c. 23, s. 10 (4).

(6) A financial or commercial business shall not include ^{Certain businesses not included.} a business carried on by operating steamboats, sailing or other vessels, tow barges or tugs; nor the business of a steam railway. 4 Edw. VII. c. 23, s. 10 (5); 6 Edw. VII. c. 36, s. 5.

(7) No person occupying or using land as a farm, market-^{Farmers, market gardeners and nurserymen.} garden or nursery shall be liable to business assessment in respect of such land. 4 Edw. VII. c. 23, s. 10 (5).

(8) Except as provided in clause (c) of subsection 1 of ^{Income from business not assessable.} section 11 every person liable to assessment in respect of a business shall not be assessed in respect of income derived

from such business, nor shall any person be assessed in respect of dividends derived by him from shares in the stock of a corporation carrying on a mercantile or manufacturing business and which corporation is subject to assessment under subsection 1; nor shall the premiums or assessments of an insurance company be assessable; nor shall any subordinate lodge of any registered Friendly Society or any officer thereof in respect of any business of such subordinate lodge be liable to any business assessment. 4 Edw. VII. c. 23, s. 10 (7); 6 Edw. VII. c. 36, s. 6.

Banks, trust and loan companies, etc.

(9) Banks, trust, loan, loaning land, insurance, railway, telegraph, telephone and express companies and any company having rights or powers upon a highway, shall not be deemed to carry on a mercantile or manufacturing business within the meaning of subsection 8. 10 Edw. VII. c. 88, s. 8.

Tax not a charge on land.

(10) Every person assessed for business assessment shall be liable for the payment of the tax thereon and the same shall not constitute a charge upon the land occupied or used. 4 Edw. VII. c. 23, s. 10 (8).

Effect of general words.

(11) Wherever in this section general words are used for the purpose of including any business which is not expressly mentioned, such general words shall be construed as including any business not expressly mentioned, whether or not such business is of the same kind as or of a different kind from those expressly mentioned. 1 Geo. V. c. 59, s. 6.

Taxation on income directly.

Taxable income.

11.—(1) Subject to the exemptions provided for in sections 5 and 10:—

- (a) Every person not liable to business assessment under section 10 shall be assessed in respect of income;
- (b) Every person although liable to business assessment under section 10 shall also be assessed in respect of any income not derived from the business in respect of which he is assessable under that section, and
- (c) Every person liable to business assessment under clause (f) of subsection 1 of section 10 shall also be assessed in respect of the income derived by him from his business, profession or calling, to the extent to which such income exceeds the amount of such business assessment.

Assessment of where not a fixed sum.

(2) Where such income is not a salary or other fixed amount capable of being estimated for the current year, the income of such person for the purposes of assessment shall be taken to be not less than the amount of his income during the year ending on the 31st December then last past. 4 Edw. VII. c. 23, s. 11.

12.—(1) Subject to subsection 6 of section 40 every person ^{Place of assessment for income.} assessable in respect of income under section 11 shall be so assessed in the municipality in which he resides either at his place of residence or at his office or place of business. 4 Edw. VII. c. 23, s. 12 (1); 7 Edw. VII. c. 41, s. 2.

(2) Subject to subsection 6 of section 40 the income of a ^{Partnerships.} partnership, or of an incorporated company, if assessable, shall be assessed against the partners at their chief place of business, and against the company at its head office, or if the company has no head office in Ontario, at its chief place of business in the municipality. 4 Edw. VII. c. 23, s. 12 (2); 7 Edw. VII. c. 41, s. 2.

13.—(1) Every agent, trustee or person who collects or ^{Income in control of agent, etc.} receives, or is in any way in possession or control of income for or on behalf of a person who is resident out of Ontario, shall be assessed in respect of such income.

(2) Every person assessed under this section shall be ^{Place of assessment.} assessed at his place of business, if any, or if he has no place of business, at his residence. 4 Edw. VII. c. 23, s. 13.

Telegraph and Telephone Companies.

14.—(1) Every telephone company carrying on business ^{Assessment of telephone companies, on income in cities, towns, villages and police villages.} in a city, town, village, or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 60 per cent. of the amount of the gross receipts belonging to the company in the city, town, village, or police village, from the business of the company for the year ending on the 31st day of December next preceding the assessment; but in cities having a population of not less than 100,000 such company shall be assessed for 75 per cent. of such gross receipts. 4 Edw. VII. c. 23, s. 14 (1).

(2) Every telephone company shall be assessed in every ^{Assessment of telephone companies on mileage in townships.} township for one ground circuit (being a single wire for carrying a message) or metallic circuit (being two wires for carrying a message), as the case may be, placed or strung on the poles or other structures or in conduits operated or used by the company in the township and in use on the 31st day of December next preceding the assessment at the rate of \$135 per mile and if any line of poles or other structures or conduits carries more than one ground circuit or metallic circuit at the rate of \$7.50 per mile for each additional ground circuit or metallic circuit, as the case may be, placed or strung on the 31st day of December next preceding the assessment.

(3) Where a local telephone system does not operate ^{lines of local telephone systems.} generally throughout Ontario and is not authorized by Statute to carry on business throughout Ontario, the lines of the company within any township shall be assessed at their actual value, but not exceeding in the whole the rates per mile pre-

scribed by this section. 4 Edw. VII. c. 23, s. 14 (2); 6 Edw. VII. c. 36, s. 7.

What wires
not to be
assessed.

(4). In the computation of the length of such telephone wires in a township the wires placed or strung within a police village and the wires of every line not exceeding 25 miles in length, where all the telephones thereon are operated upon the same circuit and which is not used as a connecting line between two or more central exchange switchboards, shall not be included. 3-4 Geo. V. c. 46, s. 5.

Telegraph
companies.
Assessment
on income in
cities, towns,
villages and
police vil-
lages.

(5) Every telegraph company carrying on business in a city, town, village or police village shall in addition to any other assessment to which it may be liable under this Act be assessed for 50 per cent. of the amount of the gross receipts belonging to the company in such city, town, village or police village from the business of the company for the year ending on the 31st day of December next preceding the assessment. 4 Edw. VII. c. 23, s. 14 (4).

Assessment
on mileage in
townships.

(6) In every township there shall be assessed against every such telegraph company a sum equal to \$40 for every mile of the length of one wire placed or strung on the poles or other structures or in conduits operated or used by the company in the township and in use on the 31st day of December next preceding the assessment and a sum equal to \$5 per mile for each additional wire so placed or strung on the 31st day of December next preceding the assessment.

Telegraph
and telephone
plant of
railways.

(7) The telephone and telegraph plant, poles and wires of a steam railway company which are used exclusively in the running of trains or for any other purposes of a steam railway and not for commercial purposes shall be exempt from assessment; but each of such wires when used for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned. 4 Edw. VII. c. 23, s. 14 (5); 6 Edw. VII. c. 36, s. 8.

Wires in
police villages
and branch
and loop
lines ex-
cluded.

(8) In the computation of the length of telegraph wires and additional wires for assessment in a township the wires placed or strung within the area of any police village and the wires of all branch and loop lines which do not exceed twenty-five miles in length shall not be included.

What to be
measured as
separate
wires.

(9) In the measurement of such additional wires, the length of every telegraph wire and of every telephone wire forming a ground circuit or pair of telephone wires forming a metallic circuit, as the case may be, placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages shall be computed.

Exemption
from other
assessments.

(10) Every company assessed as provided in this section shall, in townships, be exempt from assessment in any other manner or on any other property for municipal purposes, and

shall, in cities, towns, villages and police villages be exempt from assessment in respect of all plant, appliances and machinery wherever situate and in respect of all structures placed on, over, under, or affixed to any highway, lane or other public communication, public place or water.

(11) Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on the boundary line between two townships or so near thereto that they are in some places on one side and in other places on the other side of the boundary line or are placed on a road which lies between two townships, although it may deviate so as in some places to be wholly or partly within either of them, the company shall be assessed in each township for one-half of the amount assessable against it under subsections 2, 3, 6 or 7 as the case may be, in both the townships taken together.

a Poles and wires on township boundaries.

(12) The taxes payable by a company under this section shall be a lien on all the lands of the company in the municipality. 4 Edw. VII. c. 23, s. 14 (6-10).

Tax to be a lien on lands of company.

15.—(1) Every telegraph and telephone company doing business in Ontario shall on or before the 1st day of March in each year transmit to the Provincial Secretary a statement in writing showing:—

Returns by telegraph and telephone companies.

(a) The gross receipts of the company in Ontario and the gross receipts of the company in each city, town, village and police village, from its business for the year ending on the 31st day of December then last past;

(b) The length in miles of one wire or of a pair of wires placed or strung on all the poles or other structures or in conduits operated or used by the company in each township;

(c) The number of miles in length of one wire or of one pair of wires, as the case may be, operated or used by the company in each township, including in the measurement the length in each township of every wire or pair of wires, as the case may be, placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages; and

transmit to the assessment commissioner, or if there is no assessment commissioner, to the clerk, of every city, town and village and to the clerk of the township in the case of a police village in which the company does business, a statement in writing of the amount of the gross receipts of the company in such city, town, village or police village for the year ending on the 31st day of December then last past. 4 Edw. VII. c. 23, s. 15 (1); 8 Edw. VII. c. 50, s. 3.

Verifying
statement.

(2) Every such statement shall be signed by or on behalf of the company and shall be verified in the same manner as assessment returns are required by section 19 to be verified. 4 Edw. VII. c. 23, s. 15 (2).

ASSESSMENT RETURNS BY TAX-PAYERS.

Information
to assessors
generally.

16. Every person assessable shall give all necessary information to the assessors, if required by them, for the purposes of enabling them to properly assess him. 4 Edw. VII. c. 23, s. 16.

Information
by employers
as to
employees.

17. Every person employing any other person in his trade, manufacture, business or calling within 10 days after demand therefor shall furnish to the assessors information concerning the names, places of residence, and wages, salary or other remuneration of all persons employed by him whose wages, salary or other remuneration are not exempt under the provisions of paragraph 20 of section 5. 4 Edw. VII. c. 23, s. 17.

Requisitions
by assessor
for infor-
mation.

18.—(1) Any assessor requiring information from any person pursuant to section 16, shall cause to be delivered or mailed to the address of such person a notice, Form 2, accompanied by such blank forms of the assessment return to be made by such person as may be necessary; and such person shall, within ten days thereafter, enter in the forms all the particulars required by the notice, in the proper blanks and columns, and deliver or mail such return to the assessor.

Verifying
statement.

(2) Before delivering or mailing the return to the assessor it shall be signed by or on behalf of such person, and shall be verified by an affidavit as in Form 2, attached thereto.

(3) Such affidavit may be made before the assessor or as provided in section 228. 4 Edw. VII. c. 23, s. 18.

Returns by
corporation
as to share-
holders.

19.—(1) Every corporation whose dividends are liable to taxation against the shareholders as income, which has received a notice from the assessor or assessment commissioner requiring it to do so, shall within thirty days thereafter deliver or mail to the assessor or assessment commissioner a statement in writing setting forth the names of all shareholders who are resident in the municipality or who ought to be assessed for their income therein, the amount of stock held by every shareholder on the day named for that purpose by the assessor or assessment commissioner in the notice, and the amount of dividends and bonuses declared during the twelve months next preceding.

(2) The notice shall be delivered or mailed by registered post to the principal officer of the corporation in Ontario or to the manager, cashier or other chief officer of any branch or agency of such corporation in Ontario or be left at such principal office or the office of such manager, cashier or other chief officer, and the notice shall be deemed to have been received when it was so delivered, mailed or left.

(3) Every such statement shall be verified by an affidavit ^{Verifying statement.} as in Form 2, attached thereto, made by some officer of the corporation having a knowledge of the facts. 4 Edw. VII. c. 23, s. 19.

20.—(1) The assessor shall not be bound by any statement ^{Assessor not bound by records} delivered under the next preceding four sections, nor shall the same excuse him from making due inquiry to ascertain its correctness; and, notwithstanding any such statement, the assessor may assess every person for such amount as he believes to be just and correct, and may omit his name or any land which he claims to own or occupy, if the assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such land.

(2) Except when examined as a witness before a Court ^{Information to be confidential} no assessor, assessment commissioner, assistant or other person employed by the corporation of the municipality shall communicate or allow to be communicated to any person except to the solicitor of the corporation in the discharge of his duty any information obtained under the provisions of sections 16 to 19 or allow any person to inspect or have access to any written statement furnished under the provisions of sections 18 or 19 and no person other than the assessor or assessment commissioner and their assistants shall be entitled to any information respecting the assessment of any person other than as provided in section 50. 4 Edw. VII. c. 23, s. 20 (1-2).

(3) Every person who contravenes subsection 2 shall incur ^{Penalty} a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 26.

21.—(1) Every person who, having been duly required to ^{Penalty for not furnishing information} deliver or furnish any written statement or information mentioned in the next preceding five sections, makes default in delivering or furnishing the same and any corporation which makes default in delivering the statement mentioned in section 15, shall incur a penalty not exceeding \$100 and an additional penalty of \$10 for each day during which default continues.

(2) Every person who knowingly states anything false in ^{Penalty for false statement} any such statement or in furnishing such information shall incur a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 27.

DUTIES OF ASSESSORS.

PREPARATION OF ASSESSMENT ROLLS.

22.—(1) Every assessor shall prepare an assessment roll in ^{Assessment roll, return and contents} which after diligent inquiry he shall set down according to the best information to be had, the particulars hereinafter mentioned, and in doing so he shall observe the following provisions:—

Names of
persons
assessed.

- (a) He shall set down the names and surnames, in full, if the same can be ascertained, of all persons, whether they are or are not resident in the municipality, ward, or district for which he has been appointed, who are liable to assessment therein.

Amount
assessed
against them.

- (b) He shall set down in the proper column opposite his name the amounts assessable against each person.

Subdivisions
to be
designated.

- (c) Land known to be subdivided shall be designated in the roll by the numbers or other designation of the subdivisions, with reference where necessary to the plan or survey thereof, and land not subdivided into lots shall be designated by its boundaries or other intelligible description. 4 Edw. VII. c. 23, s. 22 (1), *part*.

Description
of part
of lot.

- (d) Where part of a lot in a city, town or village is to be assessed it shall be a sufficient description of it if the name of the owner and the tenant, if any, and the number of feet of its frontage are entered on the assessment roll; and the part assessed shall be deemed to be that part of the lot belonging to the owner whose name is so entered. 3-4 Geo. V. c. 46, s. 6 (1).

Each lot to
be assessed.

- (e) Each subdivision shall be assessed separately, and every parcel of land (whether a whole subdivision or a portion thereof, or the whole or a portion of any building thereon) in the separate occupation of any person, shall be separately assessed. 4 Edw. VII. c. 23, s. 22 (1), *cl. (d)*.

Description
of block
of vacant
land.

- (f) Where a block of vacant land subdivided into lots is owned by the same person it may be entered on the roll as so many acres of the original block or lot if the numbers and description of the lots into which it is subdivided are also entered on the roll, and the provisions of section 133 shall apply. 3-4 Geo. V. c. 46, s. 6 (2).

Assessment of
both owner
and tenant.

- (g) Subject to the provisions of subsection 5, where land is assessed against both owner and tenant, both names shall be entered on the roll, bracketed opposite the land, and numbered on the roll.

Deceased
persons.

- (h) No assessment shall be made against the name of any deceased person, but when the assessor is unable to ascertain the name of the person who should be assessed in lieu of the deceased person, he may enter instead of such name, the words "Representatives of A. B., deceased" (*giving the name of such deceased person*).

Non-
residents.

- (i) In assessing land of non-residents to which subsection 6 of section 37, is applicable, the assessor shall enter such land at the end of the assessment

roll, separated from the other assessments and placed under the heading "Land of Non-residents," and shall fill in as far as is possible under such heading with regard to such land, the particulars mentioned in columns 1, 2, 6 to 16 inclusive, and 23. 4 Edw. VII. c. 23, s. 22 (1), *els. (f-g)*.

(2) The assessor when making the annual assessment, shall inquire of every resident taxable person whether there have been any births or deaths in the family within the previous twelve months, ending on the 31st day of December then last past, and the dates thereof and shall enter the number and dates opposite the name of the person assessed, in the proper column. 4 Edw. VII. c. 23, s. 22 (2). Inquiry as to births and deaths.

(3) The assessor shall set down the particulars in separate columns as follows: Further particulars.

Column 1.—The successive number on the roll.

Column 2.—Name (surname first) and post office address of taxable person (including both the owner and tenant in regard to each parcel of land, and persons otherwise taxable) or persons entitled to be entered on the roll as a farmer's son.

Column 3.—The age of every person entered on the roll.

Column 4.—Statement whether the person is a freeholder or tenant by inserting opposite his name the letter "F." or "T." as the case may be; and where, in any municipality in which *The Manhood Suffrage Registration Act* is not in force, the person is entitled to be entered upon the roll as qualified to vote under *The Ontario Election Act*, and, where in any municipality in which the first mentioned Act is in force the person is qualified to vote at municipal elections therein as well as at elections for the Assembly, there shall also be entered opposite his name in that column, in capitals, the letters "M.F.," meaning thereby "Manhood Franchise"; and where the person is a "farmer's son," there shall also be similarly entered the letters "F.S."; and all such names shall be numbered on the roll. Rev. Stat. c. 7, s. 8.

Column 5.—Occupation, and in the case of women a statement whether the person is a spinster, married woman, or widow, by entering opposite the name of the person the letter "S," "M," or "W," as the case may be, and in the case of a non-resident owner the letters "N.R." *See as to Trustees, etc., sec. 37 (12).*

Column 6.—Number of concession, name of street, or other designation of the local division in which the land lies and residence, in the case of manhood suffrage voters and other persons not assessed for land.

Column 7.—Number of lot, house, etc., in such division. (*See also subsection 4.*)

Column 8.—Number of acres, or other measures showing the extent of the property.

Column 9.—Number of acres cleared, including as cleared all land cleared of trees, arable or otherwise fit for cultivation, or suitable for pasture, and in cities, towns or villages, whether vacant or built upon.

Column 10.—Number of acres of woodland.

Column 11.—Number of acres of slash land.

Column 12.—Number of acres of swamp, marsh or waste land.

Column 13.—Actual value of the parcel of real property, exclusive of the buildings thereon. 4 Edw. VII. c. 23, s. 22 (3), *part*.

Column 14.—Value of buildings as determined under section 40. 3-4 Geo. V. c. 46, s. 10.

Column 15.—Total actual value of the land.

Column 16.—Total amount of taxable land.

Column 17.—Total value of the land if liable for school rates only.

Column 18.—Total value of land exempt from taxation or liable for local improvements only.

Column 19.—Amount of Business Assessment under section 10.

Column 20.—Amount of income taxable under sections 11 to 13.

Column 21.—Total Assessment.

Column 22.—Religion.

Column 23.—School sections, and whether a public or separate school supporter by inserting the letters "P" or "S" as the case may be.

Column 24.—Number of children between the ages of 5 and 21. *See Rev. Stat. c. 266, s. 48 (3).*

Column 25.—Number of children between the ages of 5 and 16. *See Rev. Stat. c. 266, s. 73 (d).*

Column 26.—Number of persons in the family of each person assessed as a resident, including such person and all other persons residing on the premises.

Column 27.—Number of days statute labour for which each person is liable.

Column 28.—Births.

Column 29.—Deaths.

Column 30.—Number of dogs and number of bitches.

Column 31.—Date of delivery of notice under section 49.

Column 32.—Remarks. 4 Edw. VII. c. 23, s. 22 (3), *part*.

(4) Opposite the name of every person entered on the assessment roll but not assessed for land the assessor shall, in column 6 and 7 enter: When residence of person assessed to be entered.

(a) In the case of a city, town or village, the residence of such person by its number (if any) and the street or locality in which the same is situate;

(b) In the case of a township, the concession wherein and the lot or part of a lot whereon such person resides;

and in all cases any additional description, as to locality or otherwise, which may be reasonably necessary to enable such residence to be ascertained and verified.

(5) In cities and towns the assessor may vary the form of the assessment roll so as to show in columns 1, 2, 3, 4 and 5 the name and other particulars relating to tenants (or if there is no tenant by entering in column 2 the words "vacant lot"), and in an additional set of columns numbered 1a, 2a, 3a, 4a and 5a similar particulars relating to the owner or tenant if the tenant is a lessee holding under a lease extending over twenty-one or more years, and by inserting in column 4a the letters "O" or "L," as the case may require, opposite the name of the owner or lessee. Special columns in cities and towns.

(6) In a city or town the form may be varied so as to give any additional information required owing to changes in the boundaries of the municipality or other like causes, and columns may be omitted which are inapplicable to a city or town. 4 Edw. VII. c. 23, s. 22 (4-6). Variations of roll in cities and towns.

23. The provisions of clause (i) of subsection 1 of section 22 shall not apply to the Townships of York, Scarborough, and Etobicoke, in the County of York, but the assessor shall assess in the manner provided by subsection 5 of section 37, the unoccupied land of non-residents who have not given notice to the clerk under subsection 6 of section 37. 6 Edw. VII. c. 36, s. 9. Special provision as to Townships of York, Scarborough and Etobicoke.

24.—(1) Notwithstanding anything in this Act, in a municipality composed of more than one township the assessor when he finds it difficult for any reason to comply with the provisions of this Act requiring a separate assessment of each lot or subdivision thereof, may assess the land of any person *en bloc* and for a lump sum or at so much per acre, without placing a separate valuation upon each lot or subdivision thereof, and without distributing the assessment in any way or entering any other details in the assessment roll or observ- Assessment of lands in block.

ing any of the formalities in relation to the assessment roll, prescribed by this Act.

Entering
tenant
on roll.

(2) Where any part of such land is to the knowledge of the assessor occupied by any person as tenant he shall enter the name of such person on the roll and make a separate assessment of the land so occupied, but failure to enter such tenant on the roll or to assess the lands occupied by him shall not render invalid any assessment *en bloc* and for a lump sum or at so much per acre as provided by subsection 1. 10 Edw. VII. c. 88, s. 40; 1 Geo. V. c. 59, s. 3.

Interpre-
tation.

25.—(1) In this section—

- (a) "Farm" shall mean not less than twenty acres of land in the actual occupation of the owner of it;
- (b) "Father" shall include stepfather;
- (c) "Mother" shall include stepmother;
- (d) "Owner" shall mean a person who is owner in his or her own right, or a person whose wife is owner in her own right, of an estate for life or any greater estate legal or equitable, or of a leasehold estate the term of which is not less than five years, except where the person is a widow and in that case "owner" shall mean "owner in her own right" of such an estate;
- (e) "Son," "sons," "farmer's son" and "farmers' sons" shall mean son or sons, stepson or stepsons of the full age of twenty-one years not otherwise entitled to be entered on the voters' list.

Farmers'
sons.

(2) Subject to the provisions of the following subsections, where a father or mother is the owner of a farm, his or her sons who have resided on the farm for the twelve months next preceding and are residing thereon at the date fixed for beginning to make the assessment roll shall have the same right to be entered on the roll as if they were jointly assessed for the farm with the father or mother, but they shall be entered on the roll as farmers' sons.

When son
not entitled
to be
entered.

(3) Where the amount at which the farm is assessed is insufficient, if equally divided between a father or mother and son, and they were jointly assessed for it, to qualify both to vote at a municipal election, the son shall not be entitled to be entered on the roll in respect of the farm.

When
assessment
insufficient
to qualify
all sons.

(4) If the father is living and there are more sons than one resident as provided in subsection 1, and the farm is not assessed for an amount sufficient, if equally divided between them, to qualify the father and all such sons to vote at a municipal election, so many of the sons in the order of their seniority, beginning with the eldest, as the amount at which

the farm is assessed, if equally divided between them and the father would be sufficient to qualify, shall be entitled to be entered on the roll as farmers' sons.

(5) If the father is dead and the mother is a widow and the farm is not assessed for an amount sufficient, if equally divided between them to qualify all of them to vote at a municipal election, so many of the sons, in the order mentioned in subsection 4, as the amount at which the farm is assessed, if equally divided between the mother and them, would be sufficient to qualify, shall be entitled to be entered on the roll as farmers' sons.

(6) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months shall not disentitle a farmer's son to be entered on the roll. 3-4 Geo. V. c. 46, s. 7.

Manhood Suffrage Voters.

26.—(1) In municipalities in which *The Manhood Suffrage Registration Act* is not in force the assessor shall enter on the assessment roll, as qualified to be a voter under *The Ontario Election Act* the name of every male person of the full age of twenty-one years not disqualified from voting at elections for the Assembly, and a subject of His Majesty by birth or naturalization, who delivers or causes to be delivered to the assessor, an affidavit, Form 3, signed by such person and made before the assessor or before any person authorized by law to administer an oath. 4 Edw. VII. c. 23, s. 24 (1); 10 Edw. VII. c. 88, s. 9 (1).

Note.—As to qualification, see The Ontario Election Act, Rev. Stat. c. 8, s. 16.

(2) A person shall be deemed to be resident in the municipality for the purposes of subsection 1 notwithstanding

(a) Occasional or temporary absence; or,

(b) Absence as a member of a permanent militia corps, enlisted for continuous service, or on service as a member of the active militia; or,

(c) Absence as a student in attendance at an institution of learning in the Dominion of Canada. 10 Edw. VII. c. 88, s. 9 (2).

(3) The assessor shall also make reasonable inquiries in order to ascertain what persons resident in the municipality, or in the section of the municipality in respect of which the assessor is acting, are entitled to be placed on the roll as qualified to be voters under *The Ontario Election Act*, and shall place such persons on the roll as qualified to be voters without the affidavit mentioned in subsection 1. 4 Edw. VII. c. 23, s. 24 (3).

Students.

27.—(1) No person shall be entitled to be entered on the roll as qualified to vote under *The Ontario Election Act* in respect of residence in a municipality in which he is in attendance as a student at an institution of learning, if he has a place of residence in another municipality, and is entered or is entitled to be entered or could have been entered on the assessment roll thereof. 10 Edw. VII. c. 88, s. 10 (i).

Other persons.

(2) No person shall be entitled to be entered on the roll as qualified to vote under *The Ontario Election Act*, who is a prisoner undergoing punishment for a criminal offence in a gaol or prison; or is a patient in a lunatic asylum; or is maintained, in whole or in part, as an inmate receiving charitable support or care in a municipal house of refuge or house of industry. 4 Edw. VII. c. 23, s. 25 (2); 10 Edw. VII. c. 88, s. 10 (2).

Persons entitled to make complaints.

(3) Any person whose name is entered on, or who is entitled to have his name entered on the roll as qualified to vote under *The Ontario Election Act* shall have the right to complain to the Court of Revision to have his own name, or the name of any other person corrected in, entered on, or removed from the roll, and the proceedings thereon, including the right of appeal from the Court of Revision, shall be the same as in the case of an appeal in respect of an assessment. 10 Edw. VII. c. 88, s. 10 (3).

Names of certain persons not to be entered.
Rev. Stat. c. 7.

28. No assessor for any city or town to which *The Manhood Suffrage Registration Act* applies, shall enter upon the assessment roll the name of any person who is not liable to assessment for taxes, and the letters "M.F." shall not be placed opposite the name of any person on the roll of any such city or town, unless he is qualified to vote at municipal elections in such city or town, as well as at elections for the Assembly. 10 Edw. VII. c. 88, s. 11.

Entry of School Supporters on Roll.

Assessor to be guided by index book,
Rev. Stat.
c. 270.

29. Where the index book required by section 62 of *The Separate Schools Act* is prepared, the assessor shall be guided thereby in ascertaining who have given the notices which are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax. 4 Edw. VII. c. 23, s. 26.

Evidence on which assessor to enter persons as separate school supporters.

30. The assessor, where the entry in the index book mentioned in section 29 does not show a ratepayer to be a supporter of separate schools, shall accept the statement of the ratepayer, or a statement made on his behalf and by his authority, and not otherwise, that he is a Roman Catholic, as sufficient *prima facie* evidence for placing such person in the proper column of the assessment roll for separate school supporters, or if the assessor knows personally any ratepayer to be a Roman Catholic this shall also be sufficient for

placing him in such last mentioned column. 4 Edw. VII. c. 23, s. 27; 3-4 Geo. V. c. 46, s. 8, *part*.

31. The Court of Revision shall hear and determine all complaints with regard to persons alleged to be wrongfully placed upon or omitted from the roll as Roman Catholic Separate School supporters, and any person so complaining or any ratepayer may give notice in writing to the clerk of the municipality of such complaint, and the provisions of this Act as to giving notice of complaints against the assessment roll and proceedings for the trial thereof shall apply to complaints under this section. 3-4 Geo. V. c. 46, s. 8, *part*.

32.—(1) In the case of a municipality in which there are supporters of a Roman Catholic separate school therein, or contiguous thereto, there shall be printed in conspicuous characters, or written across or on the assessor's notice to every ratepayer provided for by section 49 and set out as Form 6, in addition to the proper entry heretofore required to be made in the column respecting the school tax, the following words: "*You are assessed as a Separate School supporter,*" or "*You are assessed as a Public School supporter,*" as the case may be; or these words may be added to the notice to the ratepayer set forth in the said Form.

(2) Where a ratepayer, who was in the next preceding year assessed as a public school supporter, is being assessed as a separate school supporter, or where a ratepayer, who was in the next preceding year assessed as a separate school supporter, is being assessed as a public school supporter, it shall be the duty of the assessor to give, in addition to all other notices, a written or printed notice to such ratepayer that such change is being made. 4 Edw. VII. c. 23, s. 28.

School Census.

33.—(1) The assessors of every municipality shall enter in a book, Form 4, to be provided by the clerk of the municipality, the name, age, and residence of every child between the ages of 8 and 14 years resident in the municipality, the name and residence of such child's parent or guardian, with an indication as to whether such parent or guardian is a public school or separate school supporter, and shall return the said book to the clerk of the municipality with the assessment roll for the use of the truant officer and others.

(2) It shall be the duty of the clerk of the municipality to send to the office of the Minister of Education as soon as he has received the said book, a statement showing the aggregate number of children between the ages of 8 and 14 entered by the assessors in the said book. 8 Edw. VII. c. 50, s. 5.

Census of
children
between five
and twenty-
one.

34.—(1) The assessors of every municipality shall make an annual census of all the children in the municipality between the ages of five and sixteen years and between the ages of five and twenty-one years.

Report to
Inspector, etc.

(2) The clerk shall report such census to the public school inspector and to the secretary of the board of education or trustees.

(3) In the case of townships the clerk shall report to the inspector of the division and to the secretary of each school section. 4 Edw. VII. c. 23, s. 30. (See Rev. Stat. c. 266, ss. 48 (3), 73 (d).)

Lists of Lands Patented, Located, etc.

County
treasurer to
furnish copies
of lists to
clerks of
municipalities.
Rev. Stat.
c. 28.

35. The county treasurer shall from the list transmitted to him by the Minister of Lands, Forests and Mines, under section 24 of *The Public Lands Act*, furnish to the clerk of each municipality in the county a copy of the said lists, so far as regards lands in such municipality, and such clerk shall furnish the assessors respectively with a statement showing what lands in the said annual list are liable to assessment within such assessor's assessment district. 7 Edw. VII. c. 23, s. 31.

(Note.—See *The Public Lands Act*, Rev. Stat. c. 28, s. 24, requiring Minister of Lands, Forests and Mines to send list of lands patented, located, etc., to treasurers of counties and of local municipalities in unorganized territory.)

[See *The Registry Act*, Rev. Stat. c. 124, s. 100, requiring Registrars upon request of the clerk of a municipality or Assessment Commissioner to furnish lists of transfers of land.]

MODE OF ASSESSMENT OF LANDS.

Land where
assessed.

36. Except as hereinafter provided for land shall be assessed in the municipality in which it lies, and in the case of cities and towns in the ward in which it lies. 4 Edw. VII. c. 23, s. 32.

Owner occupying Land.

Land against
whom to be
assessed.

37.—(1) Land occupied by the owner shall be assessed against him.

Resident Owner of unoccupied Land.

Unoccupied
land of
resident.

(2) Unoccupied land the owner of which is resident in the municipality, shall be assessed against him.

Resident Owner, Land occupied by Tenant.

(3) Land owned by a resident in the municipality and occupied by any person other than the owner shall be assessed against the owner and the tenant. Land of resident occupied by tenant.

Non-resident Owner, Land occupied by Tenant.

(4) Occupied land owned by a person who is not a resident in the municipality shall be assessed against the owner if known, and against the tenant. Occupied land owned by non-resident.

Non-resident Owner, Land unoccupied.

(5) In cities, towns and villages unoccupied land owned by non-residents shall be assessed in the same manner as the land of residents; and where the name of the owner cannot be ascertained, the assessor shall insert the word "non-resident" in the column in the assessment roll for the name of the owner opposite the description of the land. Unoccupied land of non-resident in cities, towns or villages.

(6) In townships unoccupied land shall be denominated "lands of non-residents" unless the owner thereof resides or has a place of business in the municipality where the land is situate, or gives a notice, Form 5, setting forth his full name, place of residence and post office address, to the clerk of the municipality, on or before the 20th day of April in any year that he owns such land, describing it, and requires his name to be entered in the assessment roll therefor; and the clerk of the municipality shall, on or before the 25th day of April in each year, make up and deliver to the assessor a list of the persons requiring their names to be entered on the roll and of the lands owned by them. Unoccupied land of non-resident in townships.

(7) The clerk of the municipality shall keep in a book a record of such notices, and they shall stand until revoked: a Record of non-residents' notices.

(8) Where the name of the owner of unoccupied land has not been entered upon the assessment roll in respect thereof by the assessor, such owner or his agent shall be entitled, — Rights of appeal of non-resident not named in roll.

(a) To apply to the Court of Revision to have the same so entered whether the notice in subsection 6 has or has not been given, and the Court may order the name to be entered notwithstanding that such notice has not been given or has not been given by the time in the said subsection provided;

(b) Within the time allowed by law for other applications in that behalf, to apply to the Judge to have the name of the owner entered upon the assessment roll and the voters' lists, whether such notice has or has not been given; and the judge may direct that the same be so entered as provided in section 41 of *The Ontario Voters' Lists Act*, not- Rev. Stat. c. 6.

withstanding that such notice has not been given or has not been given by the time in subsection 6 provided.

Several Owners of undivided shares, some non-resident.

Joint owners
—resident and
non-resident.

(9) Where land is owned by more persons than one, and any one of the owners is not resident in the municipality:—

(a) If the land is occupied by any person other than the owners, it shall be assessed against the tenant and against such of the owners as are known; and

(b) If occupied by any of the owners, or if unoccupied it shall be assessed against all the owners who are known.

Tenant of Non-Residents' Lands, when considered Owner.

Tenant when
to be deemed
owner.

(10) Where land is assessed against a tenant under subsection 4 or 9, the tenant, for the purpose of imposing and collecting taxes upon and from the land, shall be deemed to be the owner.

Married Woman Owner, whether resident or non-resident.

Married
woman—
when husband
to be assessed
as owner.

(11) Where a married woman, whether resident or non-resident in the municipality, is assessed as owner, the name of her husband shall also be entered in the roll as an owner, and where the property is assessed for a sum sufficient to entitle a sole owner, but insufficient to entitle two joint owners of the property to vote at municipal elections, the letter "O" shall be inserted in column 4 of the assessment roll after the name of the husband who shall be entitled to be entered on the voters' list as the owner of the property.

Trustees, Guardians, Executors, etc.

Land held
by trustees,
etc.

Provided

(12) Land held by a trustee, guardian, executor or administrator shall be assessed against him as owner or tenant thereof, as the case may require, in the same manner as if he did not hold the land in a representative capacity; but the fact that he is a trustee, guardian, executor or administrator shall, if known, be stated in column 5 of the roll. Provided, however, that such trustee, guardian or administrator shall only be personally liable when and to such extent as he has property as such trustee, guardian, executor, or administrator, available for payment of such taxes. 4 Edw. VII. c. 23, s. 33.

Land of Railway Companies, etc.

Land of
Railway Cos.,
etc.

38. The real estate of any transportation or transmission company shall be considered as land of a resident in the muni-

ality although the company has not an office in the municipality. 4 Edw. VII. c. 23, s. 34.

Land in which the Crown has an interest.

39. The owner of any land in which the Crown has an interest, and the tenant of any such land (except a tenant occupying the same in an official capacity under the Crown) shall be assessed in respect of the land in the same way as if the interest of the Crown was held by any other person; and the interest of every person other than the Crown in such land shall be subject to the charge thereon given by section 94 and shall be liable to be sold under the provisions of this Act for arrears of taxes accrued against the land 4 Edw. VII. c. 23, s. 35.

Assessment of land in which Crown has an interest.

VALUATION OF LANDS.

40.—(1) Subject to the provisions of this section, land shall be assessed at its actual value.

Assessment of land.

(2) In assessing land having any buildings thereon, the value of the land and buildings shall be ascertained separately, and shall be set down separately in columns 13 and 14 of the assessment roll and the assessment shall be the sum of such values. The value of the buildings shall be the amount by which the value of the land is thereby increased. 10 Edw. VII. c. 88, s. 13, *part*.

Buildings.

(3) To remove doubts it is hereby declared that the cost of a building is only one of the matters which should be considered in ascertaining the amount for which a building should be assessed, and if it is found that a building, either because of its condition as to repair or of its inappropriateness to the location in which it is found or because of any other circumstances affecting its value, increases the value of the land by less than the cost of the building, or the cost of replacing it, such less sum shall be the amount for which the building shall be assessed under subsection 2; the meaning of that subsection being that buildings shall be assessed for the amount of the difference between the selling value of the whole property and the selling value of the land if there were no buildings on it. 3-4 Geo. V. c. 46, s. 9.

Factors to be considered in assessing buildings.

(4) The buildings, plant and machinery in, on or under, mineral land, and used mainly for obtaining minerals from the ground, or storing the same, and concentrators and sampling plant, and, subject to subsection 8, the minerals in, on or under such land, shall not be assessable.

Buildings and minerals not assessable

(5) In no case shall mineral land be assessed at less than the value of other land in the neighbourhood used exclusively for agricultural purposes.

Minimum assessment of mineral lands

Income from
mines.

(6) The income from a mine or mineral work shall be assessed by, and the tax leviable thereon shall be paid to the municipality in which such mine or mineral work is situate. Provided that the assessment on income from each oil or gas well operated at any time during the year shall be at least \$20.

Business
assessment.

(7) Every person occupying mineral land for the purpose of any business other than mining shall be liable to business assessment as provided by section 10.

Petroleum
mineral
rights.

(8) Where in any deed or conveyance of lands heretofore or hereafter made the petroleum mineral rights in such lands have been or shall be reserved to the grantor such mineral rights shall be assessed at their actual value.

Tax on
income from
mines.

Rev. Stat. c. 26.

(9) Notwithstanding anything in this section contained, no income tax shall be payable to any municipality upon a mine or mineral work liable to taxation under section 5 of *The Mining Tax Act*, in excess of one-half, in the case of the Town of Cobalt as at present constituted, and in excess of one-third, in the case of all other municipalities, of the tax payable in respect of annual profits from such mine or mineral work under the provisions of the said section and amendments thereto. 10 Edw. VII. c. 88, s. 13, *part*.

Assessment of
toll roads.

41. Plank, gravel, macadamized or other toll roads not owned by any municipal corporation shall be assessed as real estate in the municipality in which the same are situate; and in making the assessment the assessor shall take into consideration the value of

- (a) The land occupied by the road;
- (b) The materials employed in the superstructure;
- (c) Toll houses, buildings and gates on the road; and
- (d) Quarries and gravel pits and roads to and from such places, and used in connection therewith;

but this section shall not include bridges 100 feet in length or over, and the approaches thereto, which are on or along such toll roads and which are used therewith. 4 Edw. VII. c. 23, s. 37.

Toll roads not
owned by
municipalities.

42. Every toll road owned by any person or corporation other than a municipal corporation, upon which any toll is established, whether leased to a tenant or not, shall be assessed in the municipality in which the same is situate, and where the road extends or runs into or through more municipalities than one, each municipality shall assess that part thereof which lies within its limits, and according to the value of that part, whether a toll gate or bar is or is not upon the road in the municipality. 4 Edw. VII. c. 23, s. 38.

43. Where land is not held for the purpose of sale, but is *bona fide* enclosed and used in connection with a residence or building as a paddock, park, lawn, garden or pleasure ground, it shall be assessed therewith, at a valuation which, at six per centum, would yield a sum equal to the annual rental which, in the judgment of the assessors, it is fairly and reasonably worth for the purposes for which it is used, reference being always had to its position and local advantages, unless by by-law the council requires the same to be assessed like other ground. 4 Edw. VII. c. 23, s. 41.

Where not held for sale, but for a park, pleasure ground, etc.

44.—(1) The property, by paragraph 5 of clause (h) of section 2, declared to be "land" which is owned by companies or persons supplying water, heat, light and power to municipalities and the inhabitants thereof, and companies and persons operating tramways, street railways and electric railways, and companies or persons transmitting oil or gas by pipe line, shall, in a municipality divided into wards, be assessed in the ward in which the head office of such company or person is situate, if such head office is situated in such municipality, but if the head office of such company or person is not in such municipality then the assessment may be in any ward thereof. 4 Edw. VII. c. 23, s. 42 (1); 6 Edw. VII. c. 36, s. 12, *part*.

Assessment of lands of water, heat, light, power, telephone, telegraph, street railway and electric railway companies

(2) Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property. 6 Edw. VII. c. 36, s. 12, *part*.

Assessment of works of certain companies extending into two or more municipalities.

(3) In assessing such property whether situate or not situate upon a highway, street, road, lane or other public place the same shall when and so long as in actual use be assessed at its actual cash value as the same would be appraised upon a sale to another company or person possessing similar powers, rights and franchises in and from the municipality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting the value of such property including the non-user of any of the same. 4 Edw. VII. c. 23, s. 42 (2).

Principle of assessment.

45. Except as provided by subsection 11 of section 14, where any structure, pipe, pole, wire, or other property is erected or placed upon, in, over, under, or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, the same shall be assessed in each municipality for one-half of the whole assessable value in both municipalities taken together. 10 Edw. VII. c. 88, s. 7 (2).

Pipes, poles, wires, etc., on boundary lines.

International and Intermunicipal Bridges.

Bridges over
international
boundary line.

46.—(1) In the case of any bridge liable to assessment which belongs to or is in the possession of any person or incorporated company, and which crosses any river forming the boundary between the Province of Ontario and any other country or province, the part of such structure within Ontario shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises and subject to similar conditions and burdens but subject to the provisions and basis of assessment set forth in subsection 3 of section 44.

Bridges
between
municipalities.

(2) Any bridge belonging to or in possession of any person or company between two municipalities in the Province shall be valued as an integral part of the whole and on the basis of the valuation of the whole. 4 Edw. VII. c. 23, s. 43.

Railways.

Railway com-
panies to fur-
nish certain
statements
to clerks of
municipalities.

47.—(1) Every steam railway company shall annually transmit on or before the first day of February to the clerk of every municipality in which any part of the roadway or other real property of the company is situate, a statement showing:—

- (a) The quantity of land occupied by the roadway, and the actual value thereof (according to the average value of land in the locality) as rated on the assessment roll of the previous year;
- (b) The vacant land not in actual use by the company and the value thereof.
- (c) The quantity of land occupied by the railway and being part of the highway, street, road or other public land (but not being a highway, street or road which is merely crossed by the line of railway) and the assessable value as hereinafter mentioned of all the property belonging to or used by the company upon, in, over, under, or affixed to the same.
- (d) The real property, other than aforesaid, in actual use and occupation by the company, and its assessable value as hereinafter mentioned;

and the clerk of the municipality shall communicate such statement to the assessor. 4 Edw. VII. c. 23, s. 44 (1).

Assessment
of railway
land.

(2) The assessor shall assess the land and property aforesaid as follows:

- (a) The roadway or right of way at the actual value thereof according to the average value of land in the locality; but not including the structures, substructures and superstructures, rails, ties, poles and other property thereon;
- (b) The said vacant land, at its value as other vacant lands are assessed under this Act;
- (c) The structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by the company (not including rolling stock and not including tunnels or bridges in, over, under, or forming part of any highway), upon, in, over, under or affixed to any highway, street or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises, regard being had to all circumstances adversely affecting the value including the non-user of such property; and
- (d) The real property not designated in clauses (a), (b) and (c) of this subsection in actual use and occupation by the company, at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises. 4 Edw. VII. c. 23, s. 44 (2).

(3) Notwithstanding anything in this Act contained, the structures, substructures, superstructures, rails, ties, poles, wires and other property on railway lands and used exclusively for railway purposes or incidental thereto (except stations, freight sheds, offices, warehouses, elevators, hotels, roundhouses and machine, repair and other shops) shall not be assessed. 6 Edw. VII. c. 36, s. 13.

(4) The assessor shall deliver at, or transmit by post to, any station or office of the company a notice, addressed to the company, of the total amount at which he has assessed the said land and property of the company in his municipality or ward showing the amount for each description of property mentioned in the above statement of the company; and such statement and notice respectively shall be held to be the assessment return and notice of assessment required by sections 18 and 49.

(5) A railway company assessed under this section shall be exempt from assessment in any other manner for municipal purposes except for local improvements. 4 Edw. VII. c. 23, s. 44 (3-4).

48. When an assessment has been made under the provisions of section 47 the amount thereof in the roll as finally revised

and corrected for that year shall be the amount for which the company shall be assessed for the next following four years in respect of the land and property included in such assessment; but at any time before the return of the assessment roll in any year the said amount may be reduced by deducting therefrom the value of any land or property included in such assessment which has ceased to belong to the company, and a further assessment may be made of any additional land or property of the company not included in such assessment. 4 Edw. VII. c. 23, s. 45.

NOTICE OF ASSESSMENT.

Notice of
assessment.

49.—(1) The assessor, or his assistant, before the completion of the assessment roll for the municipality, or ward, as the case may be, shall, in manner hereinafter provided, leave for or transmit to every person named in the roll, a notice, Form 6, of the sum or sums for which such person has been assessed, and the other particulars mentioned in such Form, and shall enter in the roll opposite the name of the person, the date of delivering or transmitting such notice, and the entry shall be *prima facie* evidence of such delivery or transmission.

Name of
clerk on
assessment
notice.

(2) Such notice shall contain, written or printed on some part thereof, the name and post office address of the clerk of the municipality or of the assessment commissioner, if any. 10 Edw. VII. c. 88, s. 16.

Leaving at
residence.

(3) If the person resides or has a place of business in the municipality, the notice shall be left at his residence or place of business.

Non-resident.

(4) If the person is not resident in the municipality, the notice shall be transmitted by post to his address, if known.

Leaving on
assessed
premises.

(5) If the address of the person is not known the notice shall be left with some grown-up person on the assessed premises, if there is any such person there resident.

Service of,
in cities.

(6) In any city the notice may be served upon a person resident or having a place of business within the municipality, either personally or by leaving such notice in the office or place of business of such person in the municipality; and where such office or place of business is situate in any public building, or in any building the apartments of which are occupied by different persons as places of business, the notice may be left with the person assessed, or in his absence, with some person employed in the particular office in which the person named in the notice is engaged, or, if there be no such person, the notice may be left in the particular office in which the person assessed is employed or engaged.

Where address
sent to clerk,
etc.

(7) In case any person assessed furnishes the assessment commissioner, or if none, the clerk, with a notice in writing giving an address to which the notice of assessment may be transmitted to him, and requesting that the same be trans-

mitted to such address by registered letter, the notice of assessment shall be so transmitted; and any notice so given to the assessment commissioner or clerk, as the case may be, shall stand until revoked in writing.

(8) Nothing in the preceding subsections contained shall be deemed to require the assessor to give, leave or transmit any notice to any person entered upon the assessment roll as a farmer's son. No notice to farmer's son. 4 Edw. VII. c. 23, s. 46.

Time for Completion of Roll.

50.—(1) Subject to the provisions of sections 56 to 60, every assessor shall begin to make his roll in each year not later than the 15th day of February, and shall complete the same on or before the 30th day of April, and, in municipalities not having an assessment commissioner, the assessor shall attach thereto his affidavit or solemn affirmation, and, in municipalities having an assessment commissioner, the assessment commissioner, or his assistant, as the case may require, shall attach thereto his affidavit or solemn affirmation. When assessment roll to be completed.

(2) The affidavit or affirmation, Form 7, may be made before the clerk of the municipality or a Justice of the Peace having jurisdiction in the municipality, or a commissioner for taking affidavits, or a notary public for the Province. Form of affidavit.

(3) Subject to the provisions of sections 56 to 60, every assessor shall, on or before the thirtieth day of April, deliver to the clerk of the municipality the assessment roll, completed and added up, with the affidavits attached; and the clerk shall immediately upon the receipt of the roll, file it in his office, and it shall, at all convenient office hours, be open to the inspection of all persons requiring to inspect the same. 4 Edw. VII. c. 23, s. 47. Assessment roll to be delivered to clerk of the municipality.

(4) The omission to attach to the assessment roll the affidavit or solemn affirmation required by subsection 1 shall not invalidate the roll. Omission to attach affidavit. 3-4 Geo. V. c. 46, s. 12.

Correction of Errors.

51. Notwithstanding the delivery or transmission of any notice provided for by section 49, the assessor, at any time before the time fixed for the return of the assessment roll may correct any error in any assessment and alter the roll accordingly; and he shall do so upon notice being given to him of any error; and, upon so correcting or altering any assessment he shall deliver or transmit to the person assessed an amended notice. 4 Edw. VII. c. 23, s. 48. Correction of errors in roll by assessor.

52. In cities where the assessment is made by wards, in case any person removes from a ward before having been assessed therein into a ward for which the assessment roll has Amendment of roll for ward in cities after completion of.

been completed, the assessor for the last mentioned ward may at any time before the 30th day of September amend the roll by entering therein the assessment of such person, and shall forthwith give to him the notice of assessment provided for by section 49; and the person so assessed shall be entitled to appeal to the County Judge from the assessment within ten days from the time of giving such notice. 4 Edw. VII. c. 23, s. 49.

Clerk to
report errors
or omissions
in roll to
Court of
Revision.

53. It shall be the duty of the clerk to report to the Court of Revision the facts and particulars as to any errors or omissions in the assessment roll of which he may from time to time become aware; and the Court of Revision shall thereupon take such steps as the Court shall deem advisable and necessary to cause such corrections to be made in the roll, and shall give such notice to persons interested as such corrections may render necessary. 4 Edw. VII. c. 23, s. 50.

Correction of
omission to
assess land.

54. If at any time it appears to any treasurer or other officer of the municipality that land liable to assessment has not been assessed for the current year or for either or both of the next two preceding years, he shall report the same to the clerk of the municipality, or if the omission to assess comes to the knowledge of the clerk of the municipality in any other manner, he shall enter such land on the next collector's roll, or roll for non-residents, as the case may require, as well for the arrears of the preceding year or years, if any, as for the tax of the current year; and the valuation of the land shall be the average of the three previous years, if assessed for the said three years, but if not so assessed, the clerk shall require the assessor for the current year to value the land, and it shall be the duty of the assessor to do so when required, and to certify the valuation, in writing, to the clerk; and the owner of the land shall have the right to appeal, as provided in section 112. 4 Edw. VII. c. 23, s. 51.

Inquiries to prevent creation of false Votes.

Assessor to
make in-
quiries so as
to prevent
creation of
false votes.

55.—(1) To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in any assessment roll, or claims that another person should be assessed, or entered or named in such assessment roll, as entitled to be a voter, and the assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed or to be entered or named in the roll as so entitled to be a voter, it shall be the duty of the assessor to make reasonable inquiries before assessing, entering or naming any such person in the assessment roll.

Persons
entitled to be
assessed, etc.,
to be entered
on roll with-
out request.

(2) Any person entitled to be assessed or to have his name inserted or entered in the assessment roll of a municipality, shall be so assessed, or shall have his name so inserted or entered, without any request in that behalf; and a person

entitled to have his name so inserted or entered in the assessment roll, or in the list of voters based thereon, or to be a voter in the municipality, shall, in order to have the name of any other person entered or inserted in the assessment roll or list of voters, as the case may be, have for all purposes the same right to apply, complain or appeal to a Court or a Judge in that behalf as such other person would or can have personally, unless such other person actually dissents therefrom. 4 Edw. VII. c. 23, s. 52 (1-2).

(3) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in any such case to give to a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully inserts, or procures or causes the insertion of any fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent in any such case to deprive any person of his right to be a voter, shall incur a penalty not exceeding \$200, or shall be liable, in the discretion of the convicting justice, to imprisonment for any period not exceeding six months, or to both such penalty and imprisonment. 10 Edw. VII. c. 88, s. 28.

(4) The word "Voter" in this section shall have the meaning given thereto by *The Ontario Voters' Lists Act*. 4 Edw. VII. c. 23, s. 52 (4).

Special provisions (applicable in Cities, Towns and Villages).

56.—(1) In cities, towns and villages, the council, instead of being bound by the periods above mentioned for taking the assessment, and by the periods named for the revision of the rolls by the Court of Revision, and by the County Judge, may pass by-laws for regulating the above periods, as follows, that is to say:—For taking the assessment between the 1st day of July and the 30th day of September, the rolls being returnable in such case to the city, town or village clerk on the 1st day of October; and in such case the time for closing the Court of Revision shall be the 15th day of November, and for final return by the Judge of the County Court the 15th day of December; and the assessment so made and concluded may be adopted by the council of the following year as the assessment on which the rate of taxation for said following year shall be fixed and levied; and the taxes for such following year shall in such case be fixed and levied upon such assessment; but in cities and towns the assessment may be made between the 1st day of May and the 30th day of September. 4 Edw. VII. c. 23, s. 53 (1); 1 Geo. V. c. 59, s. 4.

Delay in completing assessment, effect of.

(2) Where there has, from any cause, been delay in so completing the final revision of the said roll beyond the said 15th day of December, the council may notwithstanding adopt the assessment when finally revised, as the assessment on which the rate of taxation for the said following year shall be levied.

Adoption of assessment for current year.

(3) In case the council deem it advisable to adopt the provisions of this section in any year for which there has been an assessment made under the previous sections of this Act, the council instead of making a second assessment in the same year may pass a by-law adopting the assessment roll previously made and revised in such year, and such assessment roll shall be subject to revision in the manner provided by subsection 1, and shall have the same effect as an assessment made under subsection 1. 4 Edw. VII. c. 23, s. 53 (2-3).

Taking assessment by wards or sub-divisions in cities.

57.—(1) The council of any city instead of proceeding in the manner set forth in section 56, may by by-law, from time to time, provide for making the assessment at any time prior to the 30th day of September, and may fix prior and separate dates for the return of the roll of each ward, or each sub-division of a ward, as defined in the by-law.

By-law to fix time for hearing appeals to court of revision.

(2) Any such by-law shall also provide for holding a Court of Revision for hearing appeals from the assessments in each ward or subdivision, in the manner provided by this Act, upon the return of the assessment roll for such ward or sub-division.

Appeals to County Judge.

(3) The County Judge may sit from time to time throughout the year for the purpose of hearing appeals from the Court of Revision upon the determination of appeals made to the Court with respect to each roll; and the time for appeal to the Court of Revision shall be within ten days after the last day fixed for the return of the roll for each ward or sub-division of a ward; and the time for appealing from the Court of Revision to the County Judge shall be within three days after the decision of the Court of Revision is given.

When revision by Judge to take place and be completed.

(4) The Judge shall arrange to hear all such appeals from time to time throughout the year, within ten days after the sitting of the Court of Revision for each ward or subdivision of a ward, and shall complete his revision of the last of such rolls for the city by the 20th day of October, in each year.

Adoption of assessment for following year.

(5) The assessment so made and completed may be adopted by the council of the following year as the assessment on which the rate of taxation for such following year shall be fixed and levied, and the taxes for such following year shall in such case be fixed and levied upon the said assessment.

When rolls not completed by 20th October.

(6) If from any cause the final revision of the rolls for all the wards or subdivisions in the city has not been completed by the 20th day of October, the council may adopt the assess-

ment, when finally revised, as the assessment upon which the taxes for the following year shall be levied.

(7) In any city in which any by-law has been passed under this section, the provisions of sections 69 and 72, so far as ^{Time for giving notice etc.} the same relate to the time for appealing and giving notice thereof, shall not apply, but the clerk shall give notice to every person appealing, or whose assessment or non-assessment is appealed against, at least five days before the sitting of the Court of Revision, such notice to be served upon such person, or left at his residence or place of business, or upon the premises concerning which such appeal arises, or addressed to such person through the post office, but no advertisement of the Court shall be necessary; and in case of appeals to the County Judge, five days' notice of the day fixed by the County Judge for hearing such appeals shall be served in the manner provided in the case of appeals to the Court of Revision.

(8) The provisions of sections 69 and 72, so far as the ^{Application.} same are not inconsistent with the provisions of this section, shall apply to appeals made hereunder. 4 Edw. VII. c. 23, s. 54.

58. Where an addition of any part of the localities adjacent to any city or town has been made to said city or town, in any year subsequent to the 30th day of September, under the provisions of section 21 of *The Municipal Act*, the council of said city or town may pass a by-law in the succeeding year, adopting the assessment of the said addition as last revised while a part of the adjoining municipality as the basis of the assessment for said part for that year, although the assessment of the remainder of the city or town has been made, and the rate of taxation has been levied in accordance with the provisions of sections 56 and 57; and the levying of a proportionate share of the taxation upon said addition shall not invalidate either the assessment of the remainder or the tax levied thereon; and the qualification of municipal electors in said addition shall, for the said succeeding year, be the same as that required in the municipality from which the part has been taken. 4 Edw. VII. c. 23, s. 55. ^{Assessment of localities added to cities and towns. Rev. Stat. c. 192.}

59. Notwithstanding anything in this Act contained, the council of a township may pass a by-law for taking the assessment between the 30th day of September and the 30th day of April in the following year, and the assessment so made shall be adopted by the council of the last mentioned year. 8 Edw. VII. c. 50, s. 8. ^{By-laws for taking assessment in townships between 30th September and 30th April.}

Special Provisions applicable to Counties.

60.—(1) County councils may pass by-laws for taking the assessment in towns, townships and villages between the 1st day of February and the 1st day of July. ^{County councils may regulate time for taking assessment.}

Time for
closing Court
of Revision,
etc.

(2) If such by-law extends the time for making and completing the assessment rolls beyond the 1st day of May, then the time for closing the Court of Revision shall be six weeks from the day to which such time is extended, and the time for final return in case of an appeal shall be twelve weeks from that day. 4 Edw. VII. c. 23, s. 56.

COURT OF REVISION.

Court of
Revision in
cities, how
constituted.

61.—(1) In every city the Court of Revision shall consist of three members, one of whom shall be appointed by the city council, and one by the Mayor, and the third shall be the Official Arbitrator appointed for the city under *The Municipal Arbitrations Act*, and in the case of cities where there is no Official Arbitrator, or where such Official Arbitrator is a Judge or Junior Judge of the county in which the city is situated, the Sheriff of the county shall be the third member. 4 Edw. VII. c. 23, s. 57 (1).

Rev. Stat.
c. 199.

Payment of
members of
City Court
of Revision.

(2) Each member of the Court of Revision for a city shall be paid such sum for his services as the council may by by-law or resolution provide. 7 Edw. VII. c. 41, s. 7.

Certain persons
disqualified.

(3) No member of the city council, and no officer or employee of the city corporation shall be a member of the Court of Revision.

Appointment
of members.

(4) The appointed members of such Court of Revision shall hold office until their successors are appointed, but the mayor or council may each or either of them, after the organization of a new council and before the 1st day of March in any year, appoint a member of such Court of Revision in place of any member appointed by the mayor or council in a preceding year.

Quorum.

(5) Two members of any Court of Revision under this section shall form a quorum, and upon the death or resignation of any member of any such Court a successor shall immediately thereafter be appointed by the authority which appointed the member so dying or resigning.

Filling
vacancies.

(6) In case of a vacancy in the office of Sheriff, or if the Sheriff is unable to act from any cause in cities where there is no Official Arbitrator, the Registrar of Deeds for the county or registry division of the county whose office is in such city, shall act as the third member of the court during such vacancy or inability of the Sheriff to act. 4 Edw. VII. c. 23, s. 57 (3-5).

62.—(1) In municipalities other than cities, if the council of the municipality consists of not more than five members, such five members shall be the Court of Revision for the municipality. Where council consists of five members only.

(2) If the council consists of more than five members, it shall appoint five of its members to be the Court of Revision. Where of more than five.

(3) Every member of the Court of Revision before entering upon his duties, shall take and subscribe, before the clerk of the municipality, the following oath (or affirmation in cases where, by law, affirmation is allowed) :—

“I, _____, do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals of the Court of Revision, which may be brought before me for trial as a member of said Court.”

4 Edw. VII. c. 23, s. 58.

63. Three members of the Court of Revision shall be a quorum and a majority of a quorum may decide all questions before the court; but no member shall act when an appeal is being heard respecting any property in which he is directly or indirectly interested. 4 Edw. VII. c. 23, s. 59.

64. The clerk of the municipality shall be the clerk of the Court, and shall keep in a book a record of the proceedings and decisions of the Court, which shall be certified by the chairman of the Court. 4 Edw. VII. c. 23, s. 60. Who to be clerk, record of decisions.

65. The Court may meet and adjourn, from time to time, at pleasure, or may be summoned to meet at any time by the head of the municipality; but the first sitting shall not be held until after the expiration of at least ten days from the expiration of the time within which notice of appeals may be given to the clerk of the municipality. 4 Edw. VII. c. 23, s. 61. Meetings of Court.

66. At the time or times appointed, the Court shall meet and try all complaints in regard to persons wrongly placed upon or omitted from the roll, or assessed at too high or too low a sum. 4 Edw. VII. c. 23, s. 62. Court to try all complaints, etc.

67. The Court, or some member thereof, may administer an oath to any party or witness, before his evidence is taken, and may issue a summons to any witness to attend such Court. 4 Edw. VII. c. 23, s. 63. May administer oaths, etc.

68. Any person summoned to attend the Court of Revision or before a County Judge under the provisions of this Act as a witness who fails, without good and sufficient reason, to Penalty for failure to attend as witness.

attend, having first been tendered compensation for his time at the rate of 75 cents per day and his proper travelling expenses if he resides more than three miles from the place of trial, or who having attended, or being present in court, refuses to be sworn, if required to give evidence, shall incur a penalty not exceeding \$25. 10 Edw. VII. c. 88, s. 29.

Proceedings for the Trial of Complaints.

Notice of complaint by person aggrieved.

69.—(1) Any person complaining of an error or omission in regard to himself, as having been wrongly inserted in or omitted from the roll, or as having been undercharged or overcharged by the assessor in the roll may personally, or by his agent give notice in writing to the clerk of the municipality, (or to the assessment commissioner, if any), that he considers himself aggrieved for any or all of the causes aforesaid, and shall give a name and address where notices can be served by the clerk as hereinafter provided.

Time within which notices of appeal to the Court are to be given.

(2) The notice shall be given to the clerk, or to the assessment commissioner, if any, within fourteen days after the day upon which the roll is required by law to be returned, or within fourteen days after the return of the roll, in case the same is not returned within the time fixed for that purpose.

When elector thinks any person assessed at too low or too high a rate.

(3) If a municipal elector thinks that any person has been assessed too low or too high, or has been wrongly inserted in or omitted from the roll, he may, within the time limited by the preceding subsection, give notice in writing to the clerk of the municipality or to the assessment commissioner, if any, and the clerk shall give notice to such person and to the assessor, of the time when the matter will be tried by the Court of Revision; and the matter shall be decided in the same manner as complaints by a person assessed.

Clerk to give notice by posting up list.

(4) The clerk of the Court shall post up in some convenient and public place within the municipality or ward, a list of all complaints, on their own behalf, against the assessor's return, and of all complaints on account of the assessment of other persons stating the names of each, with a concise description of the matter complained against, together with an announcement of the time when the Court will be held to hear the complaints.

Alteration of roll only on complaint.

(5) No alteration shall be made in the roll unless under a complaint formally made according to the above provisions.

Order of hearing appeals.

(6) The clerk of the Court shall enter the appeals on the list, in the alphabetical order of the names of the appellants, and the Court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal.

Postponement.

(7) Such list may be in the following form:

Form of list
of appeals.

Appeals to be heard at the Court of Revision to be held at
on the day of , 19 .

Appellant.	Respecting whom.	Matter complained of.
A.B.	Self	Overcharged on land.
C.D.	E.F.	Name omitted.
G.H.	J.K.	Not <i>bona fide</i> owner or tenant.
L.M.	Self	Income Overcharged.
&c.	&c.	

(8) The clerk shall also advertise in some newspaper published in the municipality, or, if there be no such paper, then in some newspaper published in the nearest municipality in which one is published, the time at which the Court will hold its first sitting for the year, and the advertisement shall be published at least ten days before the time of such first sittings.

(9) The clerk shall also cause to be left at the residence or office of each assessor, a list of all the complaints respecting his roll.

(10) The clerk shall prepare a notice according to the form following for each person with respect to whom a complaint has been made:—

Take notice that the Court of Revision will sit at on the
day of in the matter of the following appeal.

Appellant

Subject—(That you are not the *bona fide* owner or tenant (or
are overcharged in assessment on (as
the case may be)

(Signed) X.Y.,
Clerk.

To J.K. or J.S.

and he shall also notify each person who has made a complaint of the date of the sittings of the Court.

(11) If the person resides or has a place of business in the municipality, the clerk shall cause the notice to be left at the person's residence or place of business.

(12) If the person is not known, then the notice shall be left with some grown-up person on the assessed premises, if there is any such person there resident; or if the person is not resident in the municipality, then the notice shall be addressed to such person through the post office.

(13) Every notice hereby required whether by publication, advertisement, letter, or otherwise shall be completed at least six days before the sitting of the Court, and the clerk shall certify to the Court, at the first day of its sitting, the notices which have been so completed.

(14) Where necessary, the clerk of the municipality may, at the cost of the municipality, call to his aid such assistance as may be required to effect the services which he is required

Power to
adjourn.

by law to make, and in the event of his failure to effect such services in time for the first sitting of the Court, the Court in its discretion, may appoint an adjourned sitting, for the purpose of hearing the appeals for which the services were not effected in time for the first day, and the proper services shall be made for such adjourned day.

Proceedings
when person
assessed
complains of
overcharge.

(15) If the person assessed complains of an overcharge on his taxable income, he or his agent may appear before the Court and make a declaration, Form 8, in case the complainant appears in person, and if the complainant appears by agent, such agent may make the declaration, Form 9; and the Court shall thereupon enter the person assessed at such an amount of taxable income as is specified in such declaration, unless the Court is dissatisfied with the declaration, in which case the person making the declaration, and any witnesses whom it may be desirable to examine, may be examined on oath by the Court respecting the correctness of such declaration; and the Court shall confirm, alter or amend the roll as the evidence seems to warrant.

Effect of
declaration.

Proceedings
in other
cases.

(16) In other cases, the Court, after hearing the complainant, and the assessor, or assessors, and any evidence adduced, and, if deemed desirable, the person complained against, shall determine the matter, and confirm or amend the roll accordingly. And the Court may, in determining the value at which any land shall be assessed, have reference to the value at which similar land in the vicinity is assessed. And in all cases which come before the Court it may increase the assessment or change it by assessing the right person, the clerk giving the latter or his agent four days' notice of such assessment, within which time he must appeal to the Court if he objects thereto.

Oaths of
certain parties
not necessary.

(17) It shall not be necessary to hear upon oath the complainant or assessor, or the person complained against, except where the Court deems it necessary or proper, or where the evidence of the person is tendered on his own behalf or required by the opposite party.

When to pro-
ceed *ex parte*.

(18) If either party fails to appear, either in person or by an agent, the Court may proceed *ex parte*. 4 Edw. VII. c. 23, s. 65 (1-18).

Correction
of errors.

(19) Where it appears that there are palpable errors in the roll of any municipality or of any ward which need correction, the Court may at any time during its sitting correct the same, if no alteration of assessed values is involved; and, if any alteration of assessed value is necessary, the Court may extend the time for making complaints for ten days from a day named by the Court and may then meet and determine the additional matter complained of, and the assessor may be or may be directed by the Court to be, for such purpose, the complainant. [See also Section 51.] 4 Edw. VII. c. 23, s. 65 (19); 10 Edw. VII. c. 88, s. 17.

(20) Subject to the provisions of sections 56 to 60 and to the provisions of any special Act affecting any particular municipality, all the duties of the Court of Revision, which relate to the matters aforesaid, shall be completed and the rolls finally revised by the Court, before the 1st day of July in every year.

(21) Upon an appeal upon any ground against an assessment, the Court of Revision may re-open the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made and the person or persons who should be assessed therefor may be placed upon the roll by the Court; and if necessary the roll of any particular ward or subdivision of the municipality, even if returned as finally revised, may be opened so as to make the same correct in accordance with the finding of the Court.

(22) The clerk shall forthwith alter and amend the assessment roll in accordance with the decisions of the Court of Revision, and shall write his name or initials against every alteration or amendment. 4 Edw. VII. c. 23, s. 65 (20-22).

70. The roll, as finally passed by the Court, and certified by the clerk as passed, shall, except in so far as the same may be further amended on appeal to the Judge of the County Court, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or mis-statement in the notice required by section 49 of this Act, or the omission to deliver or transmit such notice. Provided that the provisions of this section in so far as they relate to the omission to deliver or transmit such notice shall not apply to any person who has given the Clerk or Assessment Commissioner the notice provided for in subsection 7 of section 49. 4 Edw. VII. c. 23, s. 66.

71. A copy of any assessment roll, or portion of any assessment roll, written or printed, and under the seal of the corporation, and certified to be a true copy by the clerk of the municipality, shall be received as *prima facie* evidence in any court of justice without proof of the seal or signature, or the production of the original assessment roll of which such certified copy purports to be a copy, or a part thereof. 4 Edw. VII. c. 23, s. 67.

APPEALS FROM THE COURT OF REVISION.

72.—(1) An appeal to the County Judge shall lie, at the instance of the municipal corporation, or at the instance of the assessor, or assessment commissioner, or at the instance of any municipal elector of the municipality not only against a decision of the Court of Revision on an appeal to the said Court, but also against any omission, neglect or refusal of the

said Court to hear or decide an appeal. 4 Edw. VII. c. 23, s. 68 (1).

Service of
notice of
appeal.

(2) Subject to the provisions of sections 56 to 60, and to the provisions of any special Act affecting any particular municipality, the person appealing shall, in person or by his solicitor or agent, serve upon the clerk of the municipality (or assessment commissioner, if any there be), within five days after the date herein limited for the closing of the Court of Revision, or in case the Court shall sit to hear appeals after the said date then, within five days after the closing of the Court, a written notice of his intention to appeal to the County Judge. 4 Edw. VII. c. 23, s. 68 (2); 6 Edw. VII. c. 36, s. 14.

Day for
hearing.

(3) The clerk shall, immediately after the time limited for filing said appeals, forward a list of the same to the Judge, who shall then notify the clerk of the day he appoints for the hearing thereof, and shall, if in his opinion, the appeals or any of them appear to involve the calling or examination of witnesses, fix the place for holding such Court within the municipality, from the Court of Revision of which such appeal is made, or at the place nearest thereto where the sittings of the Division Court within his jurisdiction are held.

Places for
hearing ap-
peals from
Courts of
Revision.

Clerk to notify
parties.

(4) The clerk shall thereupon give notice to all the persons appealed against in the same manner as is provided for giving notice on a complaint under section 69; but in the event of failure by the clerk to have the required service of the notices in any appeal made, or to have the same made in proper time, the Judge may direct service to be made for some subsequent day upon which he may sit.

List of
appellants,
etc., to be
posted up by
clerk.

(5) The clerk of the municipality shall cause a notice to be posted up in a conspicuous place in his office, or the place where the council of the municipality hold their sittings, containing the names of all the appellants and persons appealed against, with a brief statement of the ground or cause of appeal, together with the date at which a Court will be held to hear appeals.

Clerk of
Court.

(6) The clerk of the municipality shall be the clerk of such Court; and he shall keep, in the book referred to in section 64, a record of the decision of the Judge upon each appeal.

Hearing and
adjournment.

(7) At the court so holden, the Judge shall hear the appeals and may adjourn the hearing from time to time, and defer judgment thereon at his pleasure, but so that (subject to the provisions of sections 56 to 60, and to the provisions of any special Act affecting any particular municipality) all the appeals may be determined before the 1st day of August.

Subpœna.

(8) A subpœna to compel the attendance of any witness required before the County Judge upon any appeal under this Act may be issued by the clerk of the County Court of

73. At the Court to be holden by the County Judge, or acting Judge of the Court, to hear the appeals hereinbefore provided for, the person having charge of the assessment roll passed by the Court of Revision shall appear and produce such roll, and all papers and writings in his custody connected with the matter of the appeal, and such roll shall be altered and amended according to the decision of the Judge, if then given, who shall write his initials against any part of the said roll in which any mistake, error or omission is corrected or supplied; and if the decision is not then given, the clerk of the Court shall, when the same is given, forthwith alter and amend the roll according to the same, and shall write his name or initials against every such alteration or correction. 4 Edw. VII. c. 23, s. 69.

74.—(1) In all proceedings before the County Judge, or acting Judge of the Court, under or for the purposes of this Act, such Judge shall possess all such powers for compelling the attendance of, and for the examination on oath of all parties, whether claiming or objecting or objected to, and of all other persons whatsoever, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him in the County Court.

(2) The hearing of the said appeal by the County Judge shall, where questions of fact are involved, be in the nature of a new trial, and either party may adduce further evidence in addition to that heard before the Court of Revision subject to any order as to costs or adjournment which the Judge may consider just. 4 Edw. VII. c. 23, s. 70.

75. All process or other proceedings by way of appeal, ^{style of} proceedings may be intituled as follows:—

In the matter of appeal from the Court of Revision of the
 , of

....., Appellant,
and
....., Respondent,

and the same need not be otherwise intituled. 4 Edw. VII.
c. 23, s. 71.

76. The costs of any proceeding before the Court of Costs to be Revision or before the Judge as aforesaid shall be paid by or apportioned between the parties in such manner as the Court and how enforced. or Judge thinks fit, and where costs are ordered to be paid by any party claiming or objecting or objected to, or by any

assessor, clerk of a municipality, or other person, payment of the same shall be enforced, when ordered by the Court of Revision, by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the Judge, by execution to be issued as the Judge may direct, either from the County Court or the Division Court within the county in which the municipality or assessment district, or some part thereof, is situated, in the same manner as upon an ordinary judgment for costs recovered in such Court. 4 Edw. VII. c. 23, s. 72.

What costs chargeable.

77. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance. and none other; and the same shall be taxed according to the allowance in the Division Court for such costs; and in cases where execution issues, the costs thereof as in the like Court, and of enforcing the same, may also be collected thereunder. 4 Edw. VII. c. 23, s. 73.

Expenses of County Judges on assessments and appeals.

78. County Court Judges shall be entitled to receive from the several municipalities as their expenses for holding Courts in such municipalities other than the county town, for the purpose of hearing appeals from the Court of Revision, under the provisions of this Act, the same sums as they are allowed for holding Courts for revising voters' lists. 4 Edw. VII. c. 23, s. 74.

Decision of County Judge to be final.

79. The decision and judgment of the Judge or acting Judge shall be final and conclusive in every case adjudicated upon. 4 Edw. VII. c. 23, s. 75.

Appeals where large amounts involved.

Appeal to Ontario Railway and Municipal Board in certain cases.

80.—(1) Where a person is assessed to an amount aggregating in a municipality in territory without county organization \$10,000 or upwards and in any other municipality \$40,000 or upwards, an appeal shall lie from the decision of the Judge to the Ontario Railway and Municipal Board, and any person who had appealed or was entitled to appeal from the Court of Revision to the Judge shall be entitled to make the appeal to the Board.

(2) An appeal to the Board shall also lie where the amount though originally less than the sum mentioned in the next preceding subsection has been increased by the Court of Revision or by the Judge so that it equals or exceeds that sum.

Clerk to notify Secretary of Board as to appeals.

(3) The clerk of the municipality shall forthwith by registered post notify the secretary of such Board of all notices of appeals coming within the provisions of this section, which are from time to time served upon him, and the secretary shall arrange a day for the hearing of such appeals, and

shall notify the clerk thereof, and the clerk shall immediately by registered post notify the persons appealing.

(4) Sections 72 to 79 and sections 81 and 82 shall apply Application of certain sections. to all appeals taken under subsections 1 or 2 and such Board shall have the powers and duties which by the said sections are assigned to a Judge of the County Court.

(5) The Board shall have power upon such appeal to Questions which may be decided on appeal. decide not only as to the amount at which the property in question shall be assessed, but also all questions as to whether any persons or things are liable to assessment or exempt from assessment under the provisions of this Act.

(6) An appeal shall lie from the decision of the Board Appeal from Board. under this section to a Divisional Court upon all questions of law, but such appeal shall not lie unless leave to appeal is given by the said court upon application of any party and upon hearing the parties and the Board.

(7) The practice and procedure on the appeal to a Divisional Court shall be the same *mutatis mutandis* subject to any rule of court or regulation of the Board as upon an appeal from a County Court. Procedure on appeals. 3-4 Geo. V. c. 46, s. 13.

81. In order to facilitate uniformity of decisions without the delay or expense of appeals,—

1. A County Judge may, after his judgment in the case or County judge may state case for opinion of Divisional Court. matter, prepare a statement of the facts in the nature of a case of any question of general application which has arisen under this Act, or on any question which has arisen upon an appeal of a person, partnership or corporation assessed on one or more properties to an amount aggregating \$10,000 and may transmit the same to the Lieutenant-Governor in Council, who thereupon may state a case and immediately refer the same to a Judge of a Divisional Court for the opinion of a Judge thereupon; or

2. The Lieutenant-Governor in Council may, without such Lieutenant-Governor may obtain opinion statement, refer a case on any such question to a Judge of a Divisional Court.

3. Immediately upon the receipt of such case it shall be duty of Court. the duty of a Judge of such Court, to be named by the First Divisional Court or by the Chief Justice of Ontario, to appoint a time and place for hearing arguments, if any be offered, upon the points and matter involved in the case, of which time and place written notice shall be given by the Registrar of the Court by posting up a copy of the notice in the Central office of the Supreme Court at Osgoode Hall, in Toronto, at least ten clear days before the time appointed as aforesaid.

4. At the time and place fixed therefor as aforesaid, or at Argument. any time to which he may adjourn the same, the Judge shall hear argument upon the case by such of the counsel present

(if any) as he may deem reasonable, and shall thereupon consider the case and certify to the Lieutenant-Governor in Council his opinion thereon; and the opinion shall thereupon be forthwith published in *The Ontario Gazette*, and a copy thereof shall be sent to every Judge of a County Court.

Security for costs.

5. The Lieutenant-Governor in Council may impose such conditions as may appear to be reasonable as to a deposit of money or the execution of a bond to His Majesty to cover costs of any party or otherwise, before or upon the transmission of such case to the Judge.

Statement of cases not to affect rolls, etc., then being prepared.

6. The statement of any such case or the hearing or argument or other proceeding thereon under this Act shall not delay the final revision of the assessment roll or other proceedings thereon or the collection of taxes thereunder. The Judge may also direct and require notice of the proceeding to be served on any person, and that such person may be heard by counsel or personally and he may make such order in the premises and as to costs and the payment thereof as will, in his opinion, do justice to all parties concerned; and any such order may be enforced in the same manner as an order of a Judge of the Supreme Court under *The Judicature Act* or otherwise. But any such order, decision or judgment shall not alter, vary or invalidate any assessment or collector's roll made at or before the time when the decision, judgment or order is made.

Rev. Stat. c. 56.

References to full Court.

7. The Judge may at any stage of the proceedings refer the case to the full Court for hearing and adjudication, and the said Court shall have the authority and perform the duties hereinbefore assigned to or conferred upon a Judge. 4 Edw. VII. c. 23, s. 77.

Assessment to be open upon appeal.

82. Upon an appeal upon any ground against an assessment the Judge of the County Court or the Ontario Railway and Municipal Board hearing an appeal under section 80, or a Divisional Court, as the case may be, may re-open the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made, and the person or persons who should be assessed therefor may be placed upon the roll by such Judge, Board or Court, and, if necessary, the roll of any particular ward or subdivision of the municipality, even if returned as finally revised, may be opened so as to make the same correct in accordance with the findings of such Judge, Board or Court. 4 Edw. VII. c. 23, s. 78.

Powers of County Judge, Court of Revision, etc., as to assessment.

83. It is hereby declared that the Court of Revision, the County Judge, The Ontario Railway and Municipal Board, and every Court to which and every Judge to whom an appeal lies under this Act have jurisdiction to determine not only the amount of any assessment, but also all ques-

tions as to whether any persons or things are or were assessable or are or were legally assessed or exempted from assessment. 10 Edw. VII. c. 88, s. 19.

84.—(1) Subject to the provisions of subsection 2 of this section, when after the appeal provided by this Act, the assessment roll has been finally revised and corrected, the clerk of the municipality shall, within 90 days, transmit to the county clerk a certified copy thereof.

Copy of roll to be transmitted to County Clerk.

(2) The council of any county may pass a by-law permitting the clerks of municipalities, instead of transmitting a copy of the roll as required by subsection 1, to submit a summarized statement of the contents of the roll, showing the total population of the municipality and the total assessment of each of the various classes of property liable to assessment; but the clerk of every municipality shall, nevertheless, transmit a copy of the roll to the Clerk of the County in every third year and whenever in other years he may be required so to do by the County Judge or by resolution of the County Council. 4 Edw. VII. c. 23, s. 79 (1-2).

Summarized statement of roll.

(3) For default in performance of his duties under this section, or under such by-law, the clerk of a municipality shall incur a penalty of not less than \$10 and not more than \$20. 10 Edw. VII. c. 88, s. 30.

Penalty

EQUALIZATION.

County Valuers.

85.—(1) The council of every county may appoint two or more valuers for the purpose of valuing the real property within the county, and it shall be their duty to ascertain, in every fifth year at furthest, the value of the same in the manner directed by the county council, but the valuers shall not exceed the powers possessed by assessors. The valuation so made shall be made by the county council the basis of equalization of the real property for a period not exceeding five years.

County Council may appoint valuers, their duties, etc.

Equalization of real property.

(2) The county council may, at or before the expiration of the said period, extend the time for a term not exceeding five years further and thereupon the valuation shall continue to be made the basis of equalization of the real property by the county council for such extended period.

Terms for which valuation to be in force.

(3) When valuers have been appointed under this section the said valuers may ascertain the value of the said real property by inspecting and valuing from five to eight per cent. of the different parcels of land in different parts of each municipality in the county, and upon such inspection and valuation the said valuers shall compare their

Method of valuing by county valuers.

valuations with the valuations in the last revised assessment roll made by the assessors of the several municipalities within the county; and if upon such comparison it is found that the valuation of the county valuator nearly corresponds in the aggregate with the valuation upon the assessment roll of a municipality, the valuator and afterwards the county council shall accept the assessment roll as correct for the purposes of county valuation.

Where valuation differs from total assessment.

(4) Where it is found that the valuations of particular lots made by the county valuator differ materially from the valuations of the same lots upon the assessment roll of a municipality, the county valuator shall add or deduct a corresponding percentage to or from the local assessment; and a similar method shall be followed with respect to the valuation of real property in towns and villages.

Attestation of valuator's report.

(5) The valuator shall attest their report on the value of the real property within the county by oath or affirmation in regard to the property actually inspected and valued by them in the same manner as assessors are required to verify assessment rolls. 4 Edw. VII. c. 23, s. 80.

Annual examination of assessment rolls by county councils for purpose of equalization.

86.—(1) The council of every county shall, yearly, and not later than the first day of July, examine the assessment rolls of the different townships, towns and villages in the county, for the preceding financial year, for the purpose of ascertaining whether the valuations made by the assessors in each township, town or village bear a just relation one to another; and may, by by-law for the purpose of county rates, increase or decrease in any township, town or village, the aggregate valuations, adding or deducting so much per cent. as may, in their opinion, be necessary to produce a just relation between them; but they shall not reduce the aggregate valuation for the whole county as made by the assessors.

Notice of equalization to municipalities concerned.

(2) Within ten days after the equalization by-law has been passed by the county council, the county clerk shall transmit to the reeve and clerk of each municipality a copy thereof. 4 Edw. VII. c. 23, s. 81.

Appeal as to equalization of Assessments.

87. If any municipality is dissatisfied with the action of any county council in increasing or decreasing, or refusing to increase or decrease the valuation of any municipality, the proceedings shall be as follows:

Notice of appeal.

1. The municipality so dissatisfied may appeal from the decision of the council at any time within twenty days after the passing of such by-law, by giving to the clerk of the county council notice in writing, which notice shall state whether the municipality appealing is willing to have the final equalization of the assessment made by the County Judge.

County council may elect as to county judge acting.

2. Every county council, at the same session in which the assessment has been equalized, shall determine whether the

said council is willing to have the final equalization of the assessment, in case of appeal, made by the County Judge.

3. Upon receiving notice of appeal, in case any party to the appeal has objected to the final equalization of the assessment being made by the County Judge, the clerk of the county council shall forthwith notify in writing the Provincial Secretary of such objection, giving the name or names of the municipality or municipalities so objecting. 4 Edw. VII. c. 23, s. 82, pars. 1-3. Notice to Provincial Secretary.

4. The Lieutenant-Governor in Council, upon receiving the notice in writing from the clerk of any county council, may appoint two persons, one of whom shall be the sheriff or registrar of the county in which the appeal is made, and the other a Judge of another county, who together with the County Judge shall form a Court, and the said Court shall at such time and place as the Lieutenant-Governor in Council may appoint, proceed to hear and determine the appeal either with or without the evidence of witnesses, or with such evidence as they may decide upon hearing, and may examine witnesses under oath or otherwise, and may adjourn from time to time; and the Court shall equalize the whole assessment of the county and shall forthwith report the same to the county council. 4 Edw. VII. c. 23, s. 82, par. 4; 3-4 Geo. V. c. 46, s. 14 (1), *part*. Appointment of Court by Lieutenant-Governor in Council.

5. It shall be the duty of the Court to dispose of the appeal before the first day of January next after the appeal. 3-4 Geo. V. c. 46, s. 14 (1), *part*. Time for disposal of appeal.

6. The Judge of the other county shall be entitled to a reasonable allowance for his services, the same not to exceed \$10 a day, besides his travelling and other expenses, and the County Judge, sheriff, or registrar, shall also receive a reasonable sum, not to exceed \$10 each per day, and to be paid by the county. Fees of Judge, sheriff and registrar.

7. Any two members of such Court shall constitute a quorum, and such Court may proceed and adjudicate upon such appeal, notwithstanding the office of sheriff or registrar or County Judge is vacant. 4 Edw. VII. c. 23, s. 82, pars. 5, 6.

8. Where all the parties to the appeal have agreed, as above provided, to have the final equalization of the assessment made by the County Judge, the clerk of the county council shall forthwith notify in writing the County Judge, and the County Judge shall appoint a day for hearing the appeal, not later than ten days from the receipt of such notice of the appeal, and may on such day proceed to hear and determine the appeal, either with or without the evidence of witnesses, or with such evidence as he may decide upon hearing, and may examine witnesses under oath or otherwise, and may adjourn, from time to time; and the Equalization by County Judge.

Judge shall equalize the whole assessment of the county, and shall forthwith report the same to the county council. 4 Edw. VII. c. 23, s. 82, par. 7; 3-4 Geo. V. c. 46, s. 14 (2), *part*.

Time for disposal of appeal.

9. It shall be the duty of the Judge to dispose of the appeal before the first day of January next after the appeal. 3-4 Geo. V. c. 46, s. 14 (2), *part*.

Appeal in cases of equalization of assessment.

10. The right of appeal shall exist whether county valuers have been appointed or not, and upon any such appeal the report of the county valuers shall be open to review by the Court or Judge as herein provided.

Costs.

11. The costs incurred in the prosecution and opposing of such appeal respectively shall be borne and paid as directed by the County Judge or Court as the case may be, and not otherwise, and shall be subject to taxation on the County Court scale by the clerk of the County Court of the said county. 4 Edw. VII. c. 23, s. 82, pars. 8, 9.

Appeal to Divisional Court.

12. An appeal shall lie to a Divisional Court from any judgment of the Judge on a question of law or the construction of a Statute, and if the judgment of the Divisional Court reverses or varies the judgment of such Judge he shall change or vary his judgment so as to conform to 'he judgment of the Divisional Court.

Procedure on appeal.

13. The procedure on such appeal shall be, as nearly as may be, the same as upon an appeal from a County Court to a Divisional Court. 3-4 Geo. V. c. 46, s. 14 (3).

Effect of clerk of municipality omitting to send copy of roll.

88. If the clerk of the municipality has neglected to transmit a certified copy of the assessment roll, such neglect shall not prevent the county council from equalizing the valuations in the several municipalities according to the best information obtainable; and any rate imposed, according to the equalized assessment, shall be as valid as if the assessment rolls had been transmitted. 4 Edw. VII. c. 23, s. 83.

Apportionment of county rates, how to be based.

89. The council of a county, in apportioning a county rate among the different townships, towns and villages within the county, shall, in order that the same may be assessed equally on the whole rateable property of the county, make the assessment of property equalized in the preceding year the basis upon which the apportionment is made. 4 Edw. VII. c. 23, s. 84.

Case of new municipalities.

90. Where boundaries of existing municipalities are changed, or where a new municipality is erected within a county so that there are no assessment or valuator's rolls of the new municipality for the next preceding year, the county council shall, by examining the rolls of the former municipi-

pality or municipalities of which the new municipality then formed part, ascertain, to the best of their judgment, what part of the assessment of the municipality or municipalities had relation to the new municipality, and what part should continue to be accounted as the assessment of the original municipality, and their several shares of the county tax shall be apportioned between them accordingly. 4 Edw. VII. c. 23, s. 85.

91. Where a sum is to be levied for county purposes, or by the county for the purposes of a particular locality, the council of the county shall ascertain, and, by by-law, direct what portions of such sum shall be levied in each township, town or village in such county or locality. 4 Edw. VII. c. 23, s. 86.

County councils to apportion sums required for county purposes.

92. The county clerk shall forthwith after the county rates have been apportioned certify to the clerk of each municipality in the county, the total amount which has been so directed to be levied therein for the then current year, for county purposes, or for the purposes of any such locality and the clerk of the municipality shall calculate and insert the same in the collector's roll for that year. 4 Edw. VII. c. 23, s. 87.

County clerk to certify amounts to clerks of municipalities.

93. Nothing in this Act contained shall alter or invalidate any special provisions for the collection of a rate for interest on county debentures, whether such provisions are contained in any Municipal Act now or formerly in force in this Province, or in any Act respecting The Consolidated Municipal Loan Fund of Ontario, or in any general or special Act authorizing the issue of debentures, or in any by-law of the county council providing for the issue of the same. 4 Edw. VII. c. 23, s. 88.

Act not to affect provisions for rates to raise interest on county debentures

COLLECTION OF TAXES.

94. The taxes due upon any land with costs may be recovered with interest as a debt due to the municipality from the owner or tenant originally assessed therefor and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and shall be a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority shall not be lost or impaired by any neglect, omission or error of the municipality, or of any agent or officer, or by want of registration. 4 Edw. VII. c. 23, s. 89.

Who liable for taxes.

Taxes to be a lien upon lands.

95.—(1) The taxes payable by any person may be recovered with interest and costs, as a debt due to the municipality; in which case the production of a copy of so much of the collector's roll as relates to the taxes payable by such

Recovery of taxes by action.

person, purporting to be certified as a true copy by the clerk of the municipality, shall be *prima facie* evidence of the debt.

Recovery in
Division Court.

(2) Where the amount claimed does not exceed \$200, an action to recover the same may be brought in a Division Court. 4 Edw. VII. c. 23, s. 90.

Paying rent to
collector until
taxes paid.

96. Where taxes are due upon any land occupied by a tenant, the collector may give such tenant notice in writing requiring him to pay such collector the rent of the premises as it becomes due from time to time to the amount of the taxes due and unpaid and costs; and the collector shall have the same authority as the landlord of the premises would have to collect such rent by distress or otherwise to the amount of such unpaid taxes and costs; but nothing in this section contained shall prevent or impair any other remedy for the recovery of the taxes or any portion thereof from such tenant or from any other person liable therefor. 4 Edw. VII. c. 23, s. 91.

When tenant
may deduct
taxes from
rent.

97. Any tenant may deduct from his rent any taxes paid by him which as between him and his landlord the latter ought to pay. 4 Edw. VII. c. 23, s. 92.

Provincial
taxes.

98. All moneys assessed, levied and collected under any Act by which the same are made payable to the Treasurer of Ontario, or other public officer for the public uses of Ontario, or for any special purpose or use mentioned in the Act, shall be assessed, levied and collected in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the collector's rolls in separate columns, in the heading whereof shall be designated the purpose of the rate. 4 Edw. VII. c. 23, s. 93.

COLLECTOR'S ROLLS.

Clerk of municipalities to
make out
collector's
rolls; their
form, contents,
etc.

99.—(1) The clerk of every municipality shall make a collector's roll or rolls, as may be necessary, containing columns for all information, required by this Act to be entered by the collector therein; and in such roll or rolls he shall set down the name in full of every person assessed, and in the proper columns in that behalf the amount for which he is assessed in respect of his real property and income and otherwise under this Act as ascertained after the final revision of the assessment roll; and he shall calculate, and, opposite the assessed value, he shall set down in one column to be headed "*County Rates*," the amount for which the person is chargeable for any sums ordered to be levied by the council of the county for county purposes, and in another column to be headed "*General Rate*," the amount with which the person is chargeable in respect of sums ordered to be levied by the

council of the municipality for the purposes thereof, and including any special rate for collecting the principal or interest for the payment of debentures issued, and in other columns any local improvement rate or school rate or other special rate, or sums for the commutation of statute labour, the proceeds of which are required by law, or by the by-law imposing it, to be kept distinct and accounted for separately; and every such last mentioned rate shall be calculated separately, and the column therefor shall be headed "*Special Rate*," "*Local Improvement Rate*," "*Public School Rate*," "*Separate School Rate*," or "*Special Rate for School Debts*," or as the case may be.

(2) Notwithstanding anything contained in subsection 1, the council of any city or town may by by-law provide that the clerk shall set down the name in full of every person assessed and the assessed value of his real property and taxable income, as ascertained after the final revision of the assessment roll, and opposite the assessed value he shall set down in a column for that purpose the amount for which the person is chargeable, for all sums ordered to be levied by the council of the said municipality for the purpose thereof.

(3) Appended to every roll made up under subsection 2 of this section there shall also be a table setting forth

(a) the total amount of taxes to be collected under and by virtue of such roll or rolls; and

(b) the name and amount of each rate levied by the municipality which is required by law or by the by-law imposing it, to be kept distinct and accounted for separately and specifying the aggregate proceeds of each rate;

and the clerk shall, before delivering the roll to the collector, furnish to the treasurer of the municipality a copy of such table. 4 Edw. VII. c. 23, s. 94.

100. The clerk shall attach to a roll a certificate signed by him according to the following form:—

I do certify that the within (or annexed, or attached, or as the case may be) Roll is the Collector's Roll prepared according to the provisions of The Assessment Act for (naming the municipality, or for Ward No. — of — as the case may be) for the year 19 — .

A.B.,
Clerk of ———

and shall deliver the roll so certified to the collector on or before the 1st day of October, or such other date as may be prescribed by by-law of the municipality. 4 Edw. VII. c. 23, s. 95.

101. The clerk of every township shall also make out a roll in which he shall enter the lands of non-residents in township.

assessed as provided in clause (i) of subsection 1 of section 22, together with the value of every lot, part of lot, or parcel, as ascertained after the revision of the roll; and he shall enter, opposite to each lot or parcel, all the rates or taxes with which the same is chargeable, in the same manner as is provided for the entry of rates and taxes upon the collector's roll; and he shall, on or before the 1st day of November, transmit the roll so made out, certified under his hand, to the treasurer of the county, but this section shall not apply to the townships of York, Scarborough, and Etobicoke. 4 Edw. VII. c. 23, s. 96; 6 Edw. VII. c. 36, s. 15.

If corrections made after collector's rolls prepared, mode to collect taxes on corrected roll.

102. If corrections are made in the assessment roll, under subsection 21 of section 69 or under section 82, after the collector's roll or rolls for the municipality for the year for which such assessment has been made have been prepared, the Clerk of the municipality shall alter or amend the collector's roll or rolls to correspond with the changes made by the Court of Revision, Judge, Board or Court under the said sections, and by inserting the proper rates therefor, and the rates or taxes shall be collectable in accordance with such corrected rolls in the same manner and with the like remedies as if the same had been in the rolls when first prepared and certified by the Clerk of the municipality. 4. Edw. VII. c. 23, s. 97.

COLLECTORS AND THEIR DUTIES.

Duties of collectors.

103. The collector, upon receiving his roll, shall proceed to collect the taxes therein mentioned. 4 Edw. VII. c. 23, s. 98.

Notice of Taxes to Residents.

Demand or notice of taxes by collector.

104.—(1) In cities, towns, villages and townships he shall call at least once on the person taxed, at his usual residence or place of business if within the municipality in and for which he has been appointed, and shall demand payment of the taxes; or he shall give to such person a written or printed notice specifying the amount of the taxes payable by him, by delivering the same, or causing the same to be delivered to him, or for him at his residence or place of business, or upon the premises in respect of which the taxes are payable.

How may be given in cities, towns and villages.

(2) In cities, towns and villages the collector may, if so authorized by by-law of the municipality (which by-law the council of the municipality is hereby empowered to pass), mail the notice or cause the same to be mailed to the address of the residence or place of business of such person.

Particulars to be given in tax notice.

(3) The written or printed notice above mentioned shall have written or printed thereon, a schedule specifying the different rates and the amount on the dollar to be levied for each rate, making up the aggregate of the taxes referred to

in such notice, and also containing the information required to be entered in the collector's roll under section 99. 4 Edw. VII. c. 23, s. 99.

105.—(1) The collector shall at the time of such demand or notice as the case may be, or immediately thereafter, enter or cause to be entered on his roll opposite the name of the person taxed, the date of such demand or of the delivery or mailing of such notice. Entry of date of giving notice.

(2) Every person so entering any such date shall append his initials thereto, and the entry shall be *prima facie* evidence of such demand or notice. 4 Edw. VII. c. 23, s. 100. Initials to entries.

Notice to Non-Residents.

106. If any person whose name appears on the roll is not resident within the municipality, the collector shall transmit to him by post, addressed in accordance with the notice given by such non-resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall at the time of such transmission enter or cause to be entered the date thereof in the roll, opposite the name of such person; and such entry shall be *prima facie* evidence of such transmission and of the time thereof; and the said statement and demand shall contain, written or printed on some part thereof, the name and post-office address of such collector. 4 Edw. VII. c. 23, s. 101. Proceedings in case of non-residents.

Registration of Notice.

107. In case any person assessed, whether resident or non-resident, furnishes the assessment commissioner, or if none, the clerk, with a notice in writing giving an address to which the notice of taxes may be transmitted to him, and requesting that the same be transmitted to such address by registered letter, the commissioner or clerk shall enter the words "to be registered" on the roll opposite the name of such person and the notice shall be so transmitted by the collector, who shall add to the taxes the cost of registration, to be paid by such person as part of his taxes; and any such notice so given to the commissioner or clerk shall stand until revoked in writing. 8 Edw. VII. c. 50, s. 9. Notice of address to which tax bills to be sent.

By-laws as to mode of Payment of Taxes.

108.—(1) In cities, towns, townships or villages, the council may by by-law require the payment of taxes, including local improvement assessments, sewer rents and rates, and of other rents or rates payable as taxes, to be made in the office of the treasurer or collector by any day or days to be named therein, in bulk or by instalments, and may provide that on the punctual payment of any instalment the By-laws requiring taxes to be paid into office of treasurer or collector.

Payment by instalments.

time for payment of the remaining instalment or instalments shall be extended to a day or days to be named, or may provide that in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

Discount on punctual payment of taxes.

(2) The council may also by by-law allow a discount for the payment of such taxes or any class of taxes or of any instalment thereof on or before a day or days therein named and may impose an additional percentage charge for non-payment of such taxes or any class of taxes or of any instalment thereof by a day or days named in such by-law, provided that no greater percentage charge than five per cent. shall be imposed on any instalment of taxes or on the aggregate amount of taxes; and such additional percentage charge shall be added to such unpaid tax, or assessment, rent or rate, or instalment thereof, and shall be collected by the collector or otherwise, as if the same had been originally imposed and formed part of such unpaid tax, or assessment, rent, or rate, or instalment thereof.

Discount or charge may be on sliding scale.

(3) Such discount or additional charge may by the by-law be provided for on the basis of a sliding scale corresponding with the length of time default is made but so as not in the aggregate to exceed five per cent. as aforesaid.

Notice as to time and mode of payment.

(4) In case a by-law is passed providing for payment by instalments or allowing any such discount or imposing any such additional percentage charge, a notice shall be given in accordance with section 104 on which shall be written or printed a concise statement of the time and manner of payment and of the discount allowed or the percentage charge imposed, if any, and at any time within fourteen days after such notice has first been given, in accordance with section 104, any person may take advantage of the provisions of such by-law as to payment by instalments or with the discount allowed thereby, or without the additional percentage charge imposed thereby, as the case may be.

By-law to be in force till return of collector's roll.

(5) Where, in accordance with this section, a percentage is added to unpaid taxes, the by-laws shall not be repealed before the return of the collector's roll. 4 Edw. VII. c. 23, s. 102.

By-laws directing payment of moneys into bank to credit of corporation.

(6) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be by the collector of taxes or by the person charged with the payment thereof paid into such chartered bank as the council shall by such by-law direct to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt from the bank therefor, and produce the same to the municipal treasurer, who shall make the proper entries therefor in the books of the municipality. 3 Edw. VII. c. 7, s. 40.

Distress for Recovery of Taxes.

109.—(1) Subject to the provisions of section 108, in case taxes which are a lien on land remain unpaid for fourteen days after demand or notice made or given pursuant to sections 104, 106, or 108, the collector or, where there is no collector, the treasurer may by himself or his agent (subject to the exemptions and provisos hereafter in this section mentioned), levy the same with costs by distress,

Distress and sale for taxes which are charge on land.

1. Upon the goods and chattels, wherever found within the county in which the municipality lies, belonging to, or in the possession of the owner or tenant of the land, whose name appears upon the collector's roll (who is hereinafter called "the person taxed");
2. Upon the interest of the person taxed in any goods on the land, including his interest in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;
3. Upon the goods and chattels of the owner of the land found thereon, though his name does not appear upon the roll;
4. Upon any goods and chattels on the land, where title to such goods and chattels is claimed in any of the ways following:
 - (a) By virtue of an execution against the person taxed, or against the owner, though his name does not appear on the roll; or
 - (b) By purchase, gift, transfer or assignment from the person taxed, or from such owner, whether absolute or in trust, or by way of mortgage, or otherwise; or
 - (c) By the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed, or of such owner, or by any relative of his, in case such relative lives on the land as a member of the family; or
 - (d) By virtue of any assignment or transfer made for the purpose of defeating distress;

On goods of persons taxed.

On interest of person taxed in goods on the land.

Goods of owner.

Certain goods on the land though claimed adversely to owner or the person taxed.

Provided that where the person taxed or such owner is not in possession, goods and chattels on the land not belonging to the person taxed or to such owner, shall not be subject to seizure; and the possession by the tenant of the said goods and chattels on the premises shall be sufficient *prima facie* evidence that they belong to him.

Not on goods of third persons a mere person taxed or owner in possession. Evidence of ownership.

Case of tenant.

Provided also, that no distress shall be made upon the goods and chattels of a tenant for any taxes not originally assessed against him as such tenant.

Taxes on vacant land in cities and towns.

Provided also, that in cities and towns no distress for taxes in respect of vacant land shall be made upon goods or chattels of the owner except upon the land.

In the case of taxes not a charge on land.

(2) Subject to the provisions of section 108, in case of taxes which are not a lien on land remaining unpaid for fourteen days after demand or notice made or given pursuant to sections 104, 106 or 108, the collector, or where there is no collector, the treasurer, may by himself or his agent (subject to the exemptions provided for in subsection 4) levy the same with costs by distress:

1. Upon the goods and chattels of the person taxed wherever found within the county in which the municipality lies for judicial purposes;
2. Upon the interest of the person taxed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;
3. Upon any goods and chattels in the possession of the person taxed where title to the same is claimed in any of the ways defined by sub-clauses *a*, *b*, *c* and *d* in subsection 1 of this section, and in applying the said sub-clauses they shall be read with the words "or against the owner through his name does not appear on the roll," and the words "or such owner," and the words "on the land" omitted therefrom. 4 Edw. VII. c. 23, s. 103 (1-2).
4. Upon goods and chattels which at the time of making the assessment were the property and on the premises of the person taxed in respect of business assessment and at the time for collection of taxes are still on the same premises, notwithstanding that such goods and chattels are no longer the property of the person taxed. 1 Geo. V. c. 59, s. 5.

Distress on goods and chattels sold by person taxed.

Case of goods in possession of warehouseman.

(3) Notwithstanding anything in the preceding subsections no goods which are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the same or of selling the same upon commission or as agent shall be levied upon or sold for such taxes; and provided further that goods in the hands of an assignee for the benefit of creditors or in the hands of a liquidator under a winding-up order shall be liable only for the taxes of the assignor or of the company which is being wound up, and for the taxes upon the premises in which the said goods were at the time of the assignment or winding-up order, and

Case of goods in possession of assignee or liquidator.

thereafter while the assignee or liquidator occupies the premises or while the goods remain thereon.

(4) The goods and chattels exempt by law from seizure under execution shall not be liable to seizure by distress unless they are the property of the person taxed, or of the owner, though his name does not appear on the roll. Goods exempt under execution when exempt from distress for taxes.

(5) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption. Exemption to be claimed.

(6) If at any time after demand has been made or notice given pursuant to sections 104, 106 or 108, and before the expiry of the time for payment of the taxes, the collector, or, where there is no collector, the treasurer has good reason to believe that any person in whose hands goods and chattels are subject to distress under the preceding provisions, is about to remove such goods and chattels out of the municipality before such time has expired, and makes affidavit to that effect before the mayor or reeve of the municipality, or before any Justice of the Peace, the mayor, reeve or Justice shall issue a warrant to the collector or treasurer, authorizing him to levy for the taxes and costs, in the manner provided by this Act, although the time for payment thereof may not have expired, and the collector or treasurer may levy accordingly. Levy of taxes under warrant.

(7) A city shall for the purposes of this section be deemed to be within the county of which it forms judicially a part. Case of city.

(8) The costs chargeable in respect of any such distress and levy shall be those payable to bailiffs under *The Division Courts Act*. Costs. Rev. Stat. c. 63.

(9) No person shall make any charge for anything in connection with any such distress or levy unless such thing has been actually done. Prohibition.

(10) In case any person offends against the provisions of subsection 9 or levies any greater sum for costs than is authorized by subsection 8, the like proceedings may be taken against him by the person aggrieved, as may be taken by the party aggrieved in the cases provided for by sections 4 and 5 of *The Costs of Distress Act*. 4 Edw. VII. c. 23, s. 103 (3-10). Penalty. Rev. Stat. c. 78.

110. No defect, error or omission in the form or substance of the notice required by sections 104, 106 or 108 shall invalidate any subsequent proceedings for the recovery of the taxes. 4 Edw. VII. c. 23, s. 104. Informalities not to invalidate subsequent proceedings.

111. The collector shall, by advertisement posted up in at least three public places in the township, village or ward wherein the sale of goods and chattels distrained is to be made give at least six days' public notice of the time and place of sale, and of the name of the person whose property Public notice or sale to be given, and in what manner.

is to be sold; and, at the time named in the notice, the collector or his agents shall sell at public auction the goods and chattels distrained, or so much thereof as may be necessary. 4 Edw. VII. c. 23, s. 105.

Surplus, if unclaimed, to be paid to party in whose possession the goods were:

112. If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person, on the ground that the property sold belonged to him, or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the property was when the distress was made. 4 Edw. VII. c. 23, s. 106.

or to admitted claimant.

113. If such claim is made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus shall be paid to the claimant. 4 Edw. VII. c. 23, s. 107.

When the right to such surplus contested.

114. If the claim is contested, such surplus shall be paid by the collector to the treasurer of the municipality, who shall retain the same until the respective rights of the parties have been determined by action or otherwise. 4 Edw. VII. c. 23, s. 108.

Collector to return his roll and pay over proceeds by the day to be appointed by council.

115.—(1) Subject to the provisions of subsections 2 and 3 of this section every collector shall return his roll to the treasurer on or before the 14th day of December in each year, or on such day in the next year not later than the 1st day of February, as the council of the municipality may appoint.

In towns and villages.

(2) In towns and villages to which any by-law passed pursuant to sections 56 to 60 of this Act applies every collector shall return his roll to the treasurer on or before the 30th day of April in the second year following the completion of the assessment roll, or such earlier date in that year as the council may appoint.

In cities.

(3) The council of every city may by by-law fix the times for the return of the collector's rolls, and may make any enlargements of the time so fixed.

Collectors of cities, towns and villages to pay to treasurer weekly.

(4) The collector of every city, town and village shall pay over to the treasurer of such city, town or village once every week until the final return of the roll, the total amount collected during the preceding week.

Collector of township to pay to treasurer every two weeks.

(5) The collector of every township shall pay over to the treasurer of such township once in every two weeks until the final return of the roll, the total amount collected during the preceding two weeks. 4 Edw. VII. c. 23, s. 109.

Oath of collector on returning roll.

116.—(1) At or before the return of his roll every collector shall make oath in writing that the date of every demand of payment or notice of taxes required by sections 104 or 108, and every transmission of statement and demand

of taxes required by section 106 entered by him in the roll, has been truly stated therein.

(2) Every other person who has delivered or mailed a notice pursuant to sections 104, 106 or 108 shall in like manner at or before the return of the roll make oath that the date of the delivery or mailing of every such notice by him, has been truly stated in the roll.

(3) Every such oath may be according to Form 10 and shall be written on or attached to the roll and may be taken before the treasurer, or before any of the persons mentioned in section 228. Form of oath, sec. 4 Edw. VII. c. 23, s. 110.

117.—(1) In case the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as in section 115 mentioned, the council may, by resolution, authorize the collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes, in the manner and with the powers provided by law for the general levy and collection of taxes. Other persons may be employed to collect taxes which collector does not collect by a certain day.

(2) No such resolution or authority shall alter or affect the duty of the collector to return his roll, nor shall, in any manner whatsoever, invalidate or otherwise affect the liability of the collector or his sureties. Duty as to return not affected. 4 Edw. VII. c. 23, s. 111.

118.—(1) The Court of Revision shall, at any time during the year for which the assessment has been made or before the 1st day of July in the following year and with or without notice, receive and decide upon the petition from any person assessed for a tenement which has remained vacant during more than three months in the year for which the assessment has been made, or from any person who declares himself, from sickness or extreme poverty unable to pay the taxes, or who, by reason of any gross and manifest error in the roll, has been over-charged, or whose land has been assessed under section 54; or who has been assessed for business, but has not carried on business for the whole year, or who has been assessed for income from personal earnings and has not earned such income or has died during the year for which the assessment on such income was made; and the Court of Revision may (subject to the provisions of any by-law in this behalf) remit or reduce the taxes due by any such person, or reject the petition; and the council may from time to time make such by-laws, and repeal or amend the same. Remission or reduction of taxes by the council. 4 Edw. VII. c. 23, s. 112 (1); 10 Edw. VII. c. 88, s. 20.

(2) An appeal may be had by such person or by the municipality from any decision of the Court of Revision under subsection 1. Appeals. 4 Edw. VII. c. 23, s. 112 (2).

119.—(1) If any of the taxes mentioned in the collector's roll remain unpaid, and the collector is not able to collect the same, he shall deliver to the treasurer of his municipality an Proceedings when taxes are unpaid, and cannot be collected.

account of all the taxes on the roll remaining unpaid; and, in such account, the collector shall shew, opposite to each assessment, the reason why he could not collect the same by inserting in each case the words "*Non-resident*" or "*Not sufficient property to distrain,*" or "*Instructed by Council not to collect,*" or "*Instructed by Council to return not collected,*" or as the case may be.

Duplicate of account for clerk.

(2) Subject to the next following subsection, the collector shall at the same time furnish the clerk of the municipality with a duplicate of such account, and the clerk shall, upon receiving the same, mail a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year.

(3) In cities the treasurer shall give the notice hereinbefore directed to be given by the clerk. 4 Edw. VII. c. 23, s. 113.

When there is not sufficient distress on such lands.

120. If there is not sufficient distress upon any of the occupied lands or lands built upon in section 128 mentioned to satisfy the total amount of taxes charged against the same, as well for arrears as for the taxes of the current year, the collector shall so return it in his roll to the treasurer of the municipality, shewing the amount collected, if any, and the amount remaining unpaid, and stating the reason why payment has not been made. 4 Edw. VII. c. 23, s. 114.

When taxes not collected, collectors to be credited with amount.

121.—(1) Upon making oath before the treasurer that the sums mentioned in such account remain unpaid, and that he has not, upon diligent inquiry, been able to discover sufficient goods or chattels subject to distress under section 109, whereon he could levy the same, or any part thereof, the collector shall be credited with the amount not realized.

Qualification of oath re vacant land.

(2) In cities and towns and any other municipalities having power to sell lands for non-payment of taxes the collector of taxes may qualify the oath, by subsection 1 directed to be made by him by showing that in respect of vacant land, he has not attempted to distrain upon the goods and chattels of the owner except upon such vacant land. 4 Edw. VII. c. 23, s. 115.

ARREARS OF TAXES ACCRUED ON LAND.

Statement of arrears to be prepared by treasurer.

122.—(1) The treasurer of every township and village shall, within fourteen days after the time appointed for the return and final settlement of the collector's roll, and before the 8th day of April in every year, furnish the county treasurer with a statement of all unpaid taxes and school rates directed in the said collector's roll or by school trustees to be collected.

Contents of statement.

(2) Such statement shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, on lands of non-residents which have become occupied, as required by section 128 of

this Act; and the county treasurer shall not be bound to receive any such statement after the 8th day of April in each year.

(3) The treasurer in such statement and both he and all other officers of the municipality shall from time to time furnish to the county treasurer such other information as the county treasurer may require and demand, in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year. 4 Edw. VII. c. 23, s. 116.

123. If two or more municipalities, having been united for municipal purposes, are afterwards disunited, or if a municipality or part of a municipality is afterwards added to or detached from any county, or to or from any other municipality, the county or other treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the municipality within which the land after such alteration is situate. 4 Edw. VII. c. 23, s. 117.

124. The county or other treasurer shall not be required to keep a separate account of the several district rates which may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. 4 Edw. VII. c. 23, s. 118.

125.—(1) After the collector's roll has been returned to the treasurer of a township or village, and before such treasurer has furnished to the county treasurer the statement mentioned in section 122, arrears of taxes may be paid to such local treasurer; but after the said statement has been returned to the county treasurer no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates.

(2) The collection of arrears shall thenceforth belong to the treasurer of the county alone, and he shall receive payment of such arrears, and of all taxes on lands of non-residents, and he shall give a receipt therefor, specifying the amount paid, for what period, the description of the lot or parcel of land, and the date of payment, in accordance with the provisions of section 137. 4 Edw. VII. c. 23, s. 119.

126. The county treasurer and the treasurer of any municipality whose officers have power to sell lands for arrears of taxes may from time to time receive part payment of taxes returned to him as in arrears upon any land; but no such payment shall be received after the land has been advertised for sale for arrears of taxes. 4 Edw. VII. c. 23, s. 120.

Duties of Treasurers, Clerks and Assessors in relation thereto

127. The treasurer of every county shall furnish to the clerk of each municipality in the county except those whose

Other information.

Municipalities united and afterwards disunited, &c.

All arrears to form one charge upon lands.

After return of roll who to receive taxes.

Collection of arrears to belong to county treasurer only.

Receiving payments on account of arrears.

Lists of lands three years in arrears for taxes to be furnished to clerks.

officers have power to sell lands for arrears of taxes, and the treasurer of every such last-mentioned municipality shall furnish to the clerk of the municipality (or in cities having an assessment commissioner the treasurer of the city shall furnish to the assessment commissioner) a list of all the lands in the municipality in respect of which any taxes have been in arrear for the three years next preceding the first day of January in any year; and the said list shall be so furnished on or before the 1st day of February in every year, or fifteen days before such other date as may be fixed by any law passed under sections 56 to 60 for the assessor to begin to make his assessment roll and shall be headed in the words following: "*List of lands liable to be sold for arrears of taxes in the year 19*;" and, for the purpose of the computation of such three years the taxes for each year shall be deemed to have been in arrear on and from the 1st day of January in such year. 4 Edw. VII. c. 23, s. 121; 10 Edw. VII. c. 88, s. 21.

Clerks to keep the lists in their offices open to inspection, give copies to assessors, notify occupants, etc.

128.—(1) The clerk of the municipality or assessment commissioner is hereby required to keep the said list, so furnished by the treasurer, on file in his office, subject to the inspection of any person requiring to see the same, and he shall also deliver a copy of such list to the assessor of the municipality in each year as soon as he is appointed; and it shall be the duty of the assessor to ascertain if any of the lots or parcels of land contained in such lists are occupied or built upon or are incorrectly described, and to notify such occupants and also the owners thereof, if known, whether resident within the municipality or not, upon their respective assessment notices, or otherwise, that the land is liable to be sold for arrears of taxes, and to enter in a column (to be reserved for the purpose) the words "*Occupied or Built upon and Parties Notified,*" or "*Not occupied,*" or "*Incorrectly described,*" or as the case may be; and all such lists shall be signed by the assessor, verified as provided in subsection 2, and returned to the clerk with the assessment roll, together with a memorandum of any error discovered therein; and the clerk shall compare the entries in the assessor's return with the assessment roll and report any differences to the assessor for verification and the clerk shall file such lists and any such memorandum in his office for public use, and shall furnish forthwith to the treasurer of the municipality, if the municipality is one whose officers have power to sell lands for arrears of taxes, or in other cases to the county treasurer, a true copy of the same certified to by him, under the seal of the corporation; and, every such list or copy thereof, shall be received in any court as evidence, in any case arising concerning the assessment of such lands.

Assessor's certificate.

(2) The assessor shall attach to each such list a certificate signed by him, and verified by oath or affirmation, in the form following:

I do certify that I have examined all the lots in this list named; and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief.

4 Edw. VII. c. 23, s. 122.

129.—(1) In cities of over 50,000 inhabitants on or before the first day of August, and in other cities and municipalities on or before the 15th day of September and, in the cases provided for by sections 56 to 60, one month before the date fixed for the completion of the collector's roll, the county treasurer or the treasurer of the municipality as the case may require shall return to the clerk of the proper municipality an account of all arrears of taxes due in respect of such occupied lands, or lands built upon, including the percentage chargeable under section 140.

(2) The clerk of each municipality shall, in making out the collector's roll of the year, add such arrears of taxes to the taxes assessed against such occupied lands, or lands built upon for the current year; and, subject to the proviso contained in subsection 1 of section 109, relating to tenants, such arrears shall be collected in the same manner and subject to the same conditions as all other taxes entered upon the collector's roll. 4 Edw. VII. c. 23, s. 123.

130. If, on an examination of the non-resident collector's roll or the return required under sections 128 and 129 of lands liable to be sold for taxes, or otherwise, it appears to the treasurer that any land liable to assessment has not been assessed for the current year, he shall report the same to the clerk of the municipality; thereupon, or if the same comes to the knowledge of the clerk in any other manner, the clerk shall proceed as provided in section 54. 4 Edw. VII. c. 23, s. 124.

131. If it is found by the statement directed by section 122 to be made, or by the return made by the collector under section 119 or section 120, that the arrears of taxes upon occupied land, or land built upon, directed by section 129 to be placed on the collector's roll, or any part thereof, remain in arrear, such land shall be liable to be sold for such arrears, and shall be included in the next ensuing list prepared pursuant to section 142 of lands liable to be sold under the provisions of section 154, notwithstanding the same may be occupied in the year when such sale takes place; and such arrears need not again be placed upon the collector's roll for collection. 4 Edw. VII. c. 23, s. 125.

132. Any clerk or assessment commissioner, as the case may be, of any municipality who neglects to preserve the said list of lands in arrear for taxes, furnished to him by the treasurer, in pursuance of section 127, or to furnish copies of

such lists, as required, to the assessor, or neglects to return to the treasurer a correct list of the lands which have become occupied, or built upon, as required by section 128, or any assessor who neglects to examine the lands entered on his list, and to make returns in manner hereinbefore directed, shall incur a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 31.

Apportionment of taxes where land assessed in block.

133.—(1) Whenever it is shown to the Court of Revision or to the council of a municipality that taxes or rates are or have become due upon land assessed in one block, the court or council, upon the application by the treasurer of the municipality or by or on behalf of any person claiming to be the owner of one or more parcels of such land, may, after notice of the application to all owners, direct the apportionment of such taxes or rates upon the said parcels in proportion to their relative value at the time of the assessment, regard being had to all special circumstances, and the council may direct how any part payment made under section 126 is to be applied; and upon payment of the apportionment assigned to any parcel the same shall be a satisfaction of the taxes or rates thereon, or the court, or the council as the case may be, may make such other direction as the case may require. The provision herein contained shall be retroactive in its operation, but shall not apply to any lands which have been advertised for sale for taxes or rates. 4 Edw. VII. c. 23, s. 127 (1); 6 Edw. VII. c. 36, s. 16 (1); 10 Edw. VII. c. 88, s. 22.

Minute of apportionment for treasurer.

(2) Forthwith after an apportionment has been made the clerk shall transmit a copy of the minute or resolution to the treasurer; who, upon receipt thereof, shall enter the same in his books, and thereafter each lot or other subdivision of the land affected shall be liable only for the amount of taxes or rates apportioned thereto, and shall only be liable for sale for non-payment of the tax or rate so apportioned or charged against it. 4 Edw. VII. c. 23, s. 127 (2); 6 Edw. VII. c. 36, s. 16 (2).

Apportionment of taxes in cities having an assessment commissioner.

134. In cities having an assessment commissioner, where taxes or rates are or have become due upon land assessed in one block, the assessment commissioner, upon application by or on behalf of any person claiming to be an owner of one or more parcels of such land, may, after notice of the application to all the owners, make the apportionment in subsection 1 of section 133 mentioned; and thereafter the treasurer shall accept taxes or rates apportioned to any subdivision in satisfaction of the taxes or rates thereon, and each subdivision shall only be liable to sale for non-payment of the taxes or rates so apportioned to or charged against it. 4 Edw. VII. c. 23, s. 128; 6 Edw. VII. c. 36, s. 17; 10 Edw. VII. c. 88, s. 23.

135. An appeal may be had by any owner or owners to the Court of Revision from any apportionment made by any assessment commissioner, under section 134, and may be had by the municipality or by any owner or owners to the Judge of the County Court from any decision or apportionment of the Court of Revision given or made on appeal from the assessment commissioner under this section or given or made by the Court of Revision under section 133. 4 Edw. VII. c. 23, s. 129. Appeal.

136.—(1) The treasurer shall, on demand, give a written certified statement of the arrears due on any land, and he may charge twenty-five cents for the search and certified statement on each separate parcel not exceeding four, and, for every additional parcel, a further fee of ten cents; but he shall not make any charge to any person who forthwith pays the taxes. If demanded, treasurer to give a written statement of arrears.

(2) The certified statement aforesaid may be according to Form 11. 4 Edw. VII. c. 23, s. 130.

137. The treasurer of every county shall keep a triplicate blank receipt book, and on receipt of any sum of money for taxes on land, shall deliver to the person making payment one of such receipts, and shall deliver to the county clerk the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the clerk at least every three months; and the county clerk shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the person making payment; the lot on which payment is made; the amount paid; the date of payment, and the number of the receipt; and the auditors shall examine and audit such books and accounts at least once in every twelve months; and in cities, towns and other municipalities having power to sell lands for non-payment of taxes the treasurer thereof shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book; and the auditors shall examine and audit the said book and accounts at least once in every year. 4 Edw. VII. c. 23, s. 131. County treasurers, etc., to keep triplicate blank receipt books. Audit of books, etc.

138. If any person produces to the treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a collector, school trustee or other municipal officer, he shall not be bound to accept the same until he has received a report from the clerk of the municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. 4 Edw. VII. c. 23, s. 132. As to pre-tendered receipts, etc.

139. The treasurer of every county shall keep a separate book for each township and village, in which he shall enter all the lands in the municipality on which it appears from the Lands on which taxes unpaid to be entered in certain books by Treasurer.

returns made to him by the clerk and from the collector's roll returned to him, that there are any taxes unpaid, and the amounts so due; and he shall, on the 1st day of May in every year, complete and balance his books by entering against every parcel of land, the arrears, if any, due at the last settlement, and the taxes of the preceding year which remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. 4 Edw. VII. c. 23, s. 133.

Percentage to
be added to
arrears of
taxes.

140.—(1) In cities having a population of 100,000 or more, at the balance to be made on the 1st day of May in every year or as soon thereafter as the balance is ascertained, the treasurer shall add to the whole amount of taxes due in respect of any parcel of land the legal rate of interest, but where, by the by-laws of the municipality, taxes are payable by instalments and a percentage has been added for default in payment of any instalment, the treasurer shall only add to the amount of taxes remaining unpaid upon the 1st day of May the legal rate of interest less what has already been added for such default.

Ten per cent.
to be added to
arrears yearly.

(2) In other municipalities at the balance to be made on the 1st day of May in every year, the treasurer, or the county treasurer as the case may require, shall add ten per cent to the arrears then due in respect of any parcel of land; but in the case of a municipality by the by-laws of which taxes are payable in bulk or by instalments with a percentage added for default the treasurer shall only add a further percentage, so that the whole addition shall amount to ten per cent. of the arrears. 4 Edw. VII. c. 23, s. 134.

SALE OF LANDS FOR TAXES.

What lands
only to be sold.

141. The treasurer shall not sell any lands for taxes which have not been included in the list furnished by him pursuant to section 127 to the clerks of the municipalities in the month of January preceding the sale nor any of the lands which have been returned to him under the provisions of section 128 as being occupied or built upon except land the arrears for which have been placed on the collector's roll of the preceding year, and have been again returned unpaid and are still in arrear in consequence of insufficient distress being found on the land. 4 Edw. VII. c. 23, s. 135.

When lands
to be sold
for taxes.

142.—(1) Where a part of the tax on any land is in arrear for three years as provided by section 127 and subject to the provisions of section 141, the treasurer shall, unless otherwise directed by by-law of the council, submit to the warden of the county a list in duplicate of all the lands liable under the provisions of this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the name and address of the owner, if known, and the

warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature; and one of such lists shall be deposited with the clerk of the county, and the other shall be returned to the treasurer with a warrant thereto annexed, under the hand of the warden and the seal of the county, commanding the treasurer to levy upon the land for the arrears due thereon, with his costs.

Arrears due for three years to be levied by warrant of warden to treasurer.

(2) In municipalities whose officers have power to sell lands for arrears of taxes the treasurer may add to the taxes shown in the list of lands liable to be sold for taxes, any taxes which have fallen due since those shown in the lists furnished by the treasurer to the clerk under section 127, and have been returned by the collector to him as provided in section 119, and the said lands may be sold as if such last mentioned taxes had been included in the statement furnished to him by the clerk, under section 127. 4 Edw. VII. c. 23, s. 136.

Treasurer to have power to add arrears accruing after return.

143. The treasurer shall, in each case, add to the arrears his commission or other lawful charges, and the costs of publication. 4 Edw. VII. c. 23, s. 137.

Expenses added to arrears.

144. The council of a county or municipality whose officers have power to sell lands for arrears of taxes may by by-law passed for that purpose, from time to time, direct that no warrant shall issue for the sale of lands for taxes until after the expiration of a longer period than that provided by section 142, and may also direct that such lands only be included in the warrant as are chargeable with arrears exceeding a certain sum to be named in the by-law. 4 Edw. VII. c. 23, s. 138.

By-laws extending period of three years.

145. In the list annexed to every warrant the lands mentioned therein shall be distinguished as patented, unpatented, or under lease or license of occupation from the Crown or municipality and the interest therein, if any, of the Crown or of the municipality shall be specially mentioned. 4 Edw. VII. c. 23, s. 139.

Distinguishing lands in list annexed to warrant.

146. The county treasurer may, from time to time, correct any clerical error which he himself discovers or which may be certified to him by the clerk of any municipality. 4 Edw. VII. c. 23, s. 140.

Correction of errors by treasurer.

147. If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he shall levy the arrears of taxes and the costs by distress, and shall have the same authority to collect by distress as a collector has under the provisions of this Act; and the provisions of section 109 shall apply thereto; but no sale of the land shall be invalid by reason of the treasurer not having distrained, though there were on the land goods and chattels liable to distress before or at the time of sale. 4 Edw. VII. c. 23, s. 141.

Where distress on premises owned by treasurer may be distrained.

Treasurer's
duty on re-
ceiving war-
rant to sell.

148. A treasurer shall not be bound to make inquiry before effecting a sale of land for taxes, to ascertain whether or not there is any distress upon the land; nor shall he be bound to inquire into or form any opinion of the value of the land. 4 Edw. VII. c. 23, s. 142.

Treasurer to
prepare list of
lands to be
sold and
advertise.

149.—(1) The treasurer shall prepare a copy of the list of lands annexed to the warrant, and shall add thereto, in a separate column, a statement of the proportion of costs chargeable on each lot for advertising, and for his commission or other lawful charges, distinguishing the lands as patented, unpatented, or under lease or license of occupation from the Crown, and shall cause such list to be published once a week for four weeks in the *Ontario Gazette*, and in some newspaper published within the county once a week, for thirteen weeks, and, in the case of a union of counties, in each county of the union, if there be a newspaper published in each county, and if not, in the county or counties of the union in which a newspaper is published, or if none be so published, in some newspaper published in some adjoining county. And in case there is a newspaper published in any municipality in which lands are situate, which are included in such list, or if none be so published, then in case there is a newspaper published in an adjoining municipality in said county the treasurer shall further cause a list of the lands so situate to be published in such newspaper once a week for four weeks immediately prior to the sale.

Notice to be
given in such
advertisement.

(2) The advertisement shall contain a notification, that unless the arrears and costs are sooner paid, the treasurer will proceed to sell the lands for the taxes, on a day and at a place named in the advertisement.

Publication
notice of
tax sale.

(3) Instead of advertising as in this section is provided, the treasurer may have the advertisement published in the *Ontario Gazette* as hereinbefore provided, and then publish in at least two newspapers, published as in subsection 1 provided, a notice announcing that the list of lands for sale for arrears of taxes has been prepared, and that copies thereof may be had in his office, and that the list is being published in the *Ontario Gazette* (inserting the dates of such publication), and that in default of payment of the taxes, the lands will be sold for taxes. 4 Edw. VII. c. 23, s. 143.

Time of sale.

150. The day of the sale shall be more than ninety-one days after the first publication of the list in the *Ontario Gazette*. 4 Edw. VII. c. 23, s. 144.

Notice to be
posted up.

151. The treasurer shall also post a printed copy of the advertisement published in the *Ontario Gazette* in some convenient and public place at the court house of the county or district, at least three weeks before the time of sale. 4 Edw. VII. c. 23, s. 145.

152.—(1) For the purpose of tax sales the Lieutenant-Governor in Council may by order in council, divide a Provisional Judicial District, and the council of any county may by by-law divide the county into tax sale districts, each of which may contain one or more municipalities. Tax sale districts

(2) The order in council or by-law may provide that there-after the sales of land situate therein for arrears of taxes shall be held by the treasurer at such place in the tax sale district as may be named in the order in council or by-law.

(3) Where any such order in council or by-law is passed, provision shall be made therein, or by further order in council or by-law, respecting the payment to the treasurer of his travelling and other expenses connected with his attending tax sales.

(4) Every advertisement or notice of a tax sale shall state the name or number of the tax sale district and the place therein at which the sale will be held. 4 Edw. VII. c. 23, s. 146.

153. If at any time appointed for the sale of the lands no bidders appear, the treasurer may adjourn the sale from time to time. 4 Edw. VII. c. 23, s. 147. Adjourning s.e. if no bidders.

154.—(1) If the taxes have not been previously collected, or if no person appears to pay the same at the time and place appointed for the sale, the treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes, and all lawful charges incurred in and about the sale and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first; and, in offering or selling such lands, it shall not be necessary to describe particularly the portion of the lot which is to be sold, but it shall be sufficient to say that he will sell so much of the lot as may be necessary to secure the payment of the taxes due; and the amount of taxes stated in the advertisement of sale shall, in all cases, be held to be the correct amount due. Mode in which the lands shall be sold by the treasurer.

(2) If the treasurer fails at such sale to sell any land for the full amount of arrears of taxes due, including the full amount of commission and other lawful charges and costs added under section 143, he shall at such sale adjourn the same until a day then to be publicly named by him, not earlier than one week, nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless otherwise directed by the council of the municipality in which they are situate, for any sum he can realize, and shall accept such sum as full payment of such arrears of taxes; but the owner of any land so sold for less than the full amount chargeable against the When land does not sell for full amount of taxes.

same as aforesaid shall not be at liberty to redeem the same, except upon payment of the full amount of taxes due, together with the expenses of sale and the ten per cent. provided for in section 170.

Purchase by
municipalities
of land sold
for taxes.

Advertising
the municip-
ality's inten-
tion to buy.

Redemption in
such case.

Mode of
selling for
taxes in York,
Scarborough
and
Etobicoke.

Provido.

(3) If the price offered for any land at the adjourned sale is less than the amount due for arrears of taxes, charges and costs, it shall be lawful for the municipality to purchase the same for the amount due, provided that previous notice by public advertisement in the local newspaper or in one of the local newspapers in which the original sale was advertised, of intention so to do has been given by the treasurer; but the owner of any land so purchased by the municipality shall not be at liberty to redeem the same except upon payment of the full amount of the taxes due, together with the expenses of sale, and also the taxes including the local improvement rates and interest thereon which would have accrued against the property if it had remained the property of the former owner, and been liable for ordinary taxation; and if the value thereof is not shown upon the assessment roll, such taxes shall be computed at the rate fixed by by-law for each year for which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed; and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed, and upon the frontage as shown upon the list of properties and the frontages thereof as settled by the Court of Revision for such local improvement. 4 Edw. VII. c. 23, s. 148.

155.—(1) The treasurers of the Townships of York, Scarborough and Etobicoke shall not be obliged to sell for taxes, only a portion of any vacant lot originally laid out according to any registered plan, the frontage of which lot liable to be sold for taxes does not exceed fifty feet, but may in all such cases sell the whole of such lot or the whole of that part thereof (as the case may be) in respect of which taxes are in arrear, for the best price that may be offered by the bidders at the sale; and any money obtained by the treasurer as the price of any such lot shall be applied firstly in paying the arrears of taxes and interest and lawful expenses due in respect of such lot, and the balance, if any, shall be paid by such treasurer to the owner of such lot or to such other person as may be authorized by law to receive the same less ten per cent. of the sale price and less such charges and expenses as the treasurer may pay or incur in satisfying himself of the right of such owner or other person to receive the same. And it shall be the duty of the person claiming such balance to produce to the treasurer proof of his or her right to recover the same; provided, however, that in the event of redemption the person redeeming shall pay ten per cent. upon the whole amount realized in respect thereof notwithstanding section 170.

(2) Subsection 1 shall not in any way alter or affect the Act passed in the 58th year of the reign of Her late Majesty Queen Victoria, chaptered 94, intituled *An Act respecting the Township of York*, or the by-laws confirmed by the said Act. 4 Edw. VII. c. 23, s. 149.

156. If a purchaser fails to pay his purchase money immediately, the treasurer shall forthwith again put up the property for sale. 4 Edw. VII. c. 23, s. 150.

157.—(1) Where the Crown, whether as represented by the Government of Canada or the Government of the Province of Ontario, has an interest in any land in respect of which taxes are in arrear, the interest only of persons other than the Crown therein shall be liable to be sold for arrears of taxes.

(2) Where the treasurer so sells the interest of any person, it shall be distinctly expressed, in the tax deed to be made under this Act to the purchaser, that the sale is only of the interest of such person in the land, and (whether so expressed or not) the tax deed shall in no wise affect the interest or rights of the Crown in the land sold, and shall give the purchaser the same interest and rights only in respect of the land as the person had whose interest is being sold.

(3) Where the interest so sold of any person is that of a lessee, licensee or locatee, the tax deed shall be valid without requiring the consent of the Minister of Lands, Forests and Mines. 4 Edw. VII. c. 23, s. 151.

158. No person shall be entitled to purchase at a sale for taxes, under section 154 or from a municipality which has purchased land thereunder, more unpatented land in the free grant districts than a locatee is entitled to obtain or hold under Part II of *The Public Lands Act*. 4 Edw. VII. c. 23, s. 152.

159. No sale for taxes shall be made of unpatented land in the free grant districts where the taxes due thereon are less than \$10, if the lands have not been before the 27th day of May, 1893, advertised for sale, nor where no bona fide improvements have been made by or on behalf of the locatee. This section shall not apply to lands purchased by municipalities prior to the 27th day of May, 1893, under the enactments consolidated in section 154. 4 Edw. VII. c. 23, s. 153.

160. All lands in the free grant districts purchased under sale for taxes shall be subject to all the terms and conditions as to settlement or otherwise required by Part II of *The Public Lands Act*, unless under special circumstances the Minister of Lands, Forests and Mines sees fit to dispense therewith in whole or in part. 4 Edw. VII. c. 23, s. 154.

Sale of interest of lessee or tenant of municipal property.

161. If the treasurer sells any interest in land of which the fee is in the city, town or other municipality in respect of which the taxes accrue, he shall only sell the interest therein of the lessee or tenant; and it shall be so distinctly expressed in the tax deed. 4 Edw. VII. c. 23, s. 155.

Sale of lands for taxes not to affect collection of other rates.

162. No sale of lands for taxes or for rates under a drainage or local improvement by-law shall invalidate or in any way affect the collection of a rate which has been assessed against or imposed or charged upon such lands prior to the date of the sale, but which accrues or becomes due and payable after the rates or taxes in respect of which the sale is had became due and payable or after the sale. 4 Edw. VII. c. 23, s. 156.

Certificate of Sale—Tax Deed.

Treasurer selling to give purchaser a certificate of land sold.

163. The treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has been sold, and the expenses of sale, and further stating that a deed conveying the same to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to sections 154 and 157, will be executed by the treasurer and warden on demand, at any time after the expiration of the period hereinafter provided for redemption. 4 Edw. VII. c. 23, s. 157.

Purchaser of lands deemed owner for certain purposes.

164.—(1) The purchaser shall, on the receipt of the treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.

Proviso.

(2) The purchaser shall not be liable for damage done without his knowledge to the property during the time the certificate is in force. 4 Edw. VII. c. 23, s. 158.

Effect of tender of arrears, etc.

165. From the time of a tender to the treasurer of the full amount of redemption money required by this Act, the purchaser shall cease to have any further right in or to the land in question. 4 Edw. VII. c. 23, s. 159.

Treasurer's commission.

166. Every treasurer shall be entitled to two and one-half per centum commission upon the sums collected by him, as aforesaid, except that where the taxes against any parcel

of land are less than \$10, the treasurer shall be entitled to charge, in lieu of his commission, 25 cents; but where the treasurer is paid a salary for his services such commission may, by arrangement with the council, be paid into the funds of the municipality like any other revenue of the municipality. 4 Edw. VII. c. 23, s. 160.

167. Where land is sold by a treasurer according to the provisions of section 149, and following sections of this Act, he may add the commission and other charges which he is authorized by this Act to charge for the services above mentioned, to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale, of the arrears and costs incurred. 4 Edw. VII. c. 23, s. 161.

Fees, etc., on sales of land.

168. The treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the part sold with sufficient certainty, and if less than a whole lot is sold, then he shall give such a general description as may enable a surveyor to lay off the piece sold on the ground; and he may make search, if necessary, in the registry office, to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the registry office or the government maps, where a full description cannot otherwise be obtained, such surveyor's fee not to exceed \$1; and the charges so incurred shall be included in the account and paid by the purchaser of the land sold, or the person redeeming the same. 4 Edw. VII. c. 23, s. 162.

Expenses on search in registry office for description, etc.

169. Except as hereinbefore provided, the treasurer shall not be entitled to any other fees or emoluments whatever for any services rendered by him relating to the collection of arrears of taxes on lands. 4 Edw. VII. c. 23, s. 163.

Treasurer entitled to no other fees.

170. Subject to the provisions of subsections 2 and 3 of section 154, the owner of any land sold for taxes, or his heirs, executors, administrators or assigns, or any other person, may, at any time within one year from the day of sale, exclusive of that day, redeem the estate sold by paying or tendering to the county treasurer for the use and benefit of the purchaser or his legal representatives, the sum paid by him, together with ten per cent. thereon; and the treasurer shall give to the person paying such redemption money, a receipt stating the sum paid and the object of payment; and such receipt shall be evidence of the redemption. 4 Edw. VII. c. 23, s. 164.

Owners may within one year redeem estate sold by paying purchase money and 10 per cent. thereon.

171.—(1) If the land is not redeemed within the period allowed for redemption, being one year from the day of sale exclusive of the day of sale as aforesaid, then the treasurer

Deed of sale, if not redeemed.

before the execution of the tax deed shall make or cause to be made search in the Registry Office and in the Sheriff's Office and ascertain whether or not there are mortgages or other incumbrances affecting the lands sold and who is the registered owner of the land.

Notice to incumbrancers.

(2) The treasurer shall forthwith send to each incumbrancer (if any) and to the registered owner by registered letter mailed to the address of such incumbrancer or owner if known to the treasurer, and if such address is not known to the treasurer then to any address of such incumbrancer or owner appearing in the incumbrance or deed a notice stating that the incumbrancer or owner is at liberty within thirty days from the date of the notice to redeem the estate sold by paying to the treasurer the amount of the purchase money together with 15 per cent. thereon added thereto and the amount of the charges for the searches aforesaid and postage and \$1 for the notice, the amount aforesaid to be specified in the notice.

Receipt if arrears paid.

(3) If within the time aforesaid payment of the said amount is made by any such incumbrancer or by the owner of the land the treasurer shall give to the person making the payment a receipt stating the sum paid and the object of the payment, and the same shall be evidence of the redemption, and any incumbrancer making the payment may add the amount to his debt.

Who to be entitled to receipt.

(4) In case of payment by the owner the receipt aforesaid shall be given to him and in case of payment by one or more incumbrancers and not by the owner, the receipt shall be given to that incumbrancer who is first in priority. The amount paid by other persons shall be repaid to them.

Payment of redemption money to tax purchaser.

(5) The redemption money after deducting the charges aforesaid for searches, postage and notice shall be paid by the treasurer to the tax purchaser or his assigns or other legal representatives.

Execution and delivery of deed.

(6) If the redemption money is not paid within the time aforesaid the treasurer upon payment of the said charges for searches, postage and notice and \$1 for the deed, shall with the warden execute and deliver to the purchaser or his assigns or other legal representatives a tax deed in duplicate of the land sold. 4 Edw. VII. c. 23, s. 165 (1-6).

Deed may include several lots.

(7) Such deed, if requested, may include any number of lots not exceeding four, which are to be conveyed to the same person. 6 Edw. VII. c. 36, s. 18.

Meaning of "treasurer" and "warden."

172. The words "treasurer" and "warden" in the preceding section shall mean the person who at the time of the execution of the deed in such section mentioned holds the said office. 4 Edw. VII. c. 23, s. 166.

173. The tax deed shall be according to Form 12, or to the same effect and shall state the date and cause of the sale, and the price, and shall describe the land according to the provisions of section 168, and shall have the effect of vesting the land in the purchaser, his heirs, assigns or legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold; and no such deed shall be invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as "patented" or "unpatented" or "held under a license of occupation" or "held under lease" or otherwise. 4 Edw. VII. c. 23, s. 167.

Contents of deed and effect thereof.

174. As respects land sold for taxes before the 1st day of January, 1851, on the receipt by the registrar of the proper county or place of a certificate of the sale to the purchaser under the hand and seal of office of the sheriff, stating the name of the purchaser, the sum paid, the number of acres and the estate or interest sold, the lot or tract of which the same forms part, and the date of the sheriff's conveyance to the purchaser, his heirs, executors, administrators or assigns, and on production of the conveyance from the sheriff to the purchaser, his heirs, executors, administrators or assigns, such registrar shall register any sheriff's deed of land sold for taxes before the 1st day of January, 1851; and the mode of such registry shall be the entering on record a transcript of such deed or conveyance. 4 Edw. VII. c. 23, s. 169.

On what the sheriff gives a certificate to register sheriff's deeds of land sold for taxes before 1851.

175. As respects land sold for taxes after the 1st day of January, 1851, and prior to the 1st day of January, 1866, the sheriff shall also give the purchaser or his assigns, or other legal representatives, a certificate under his hand and seal of office of the execution of the deed, containing the particulars in the last section mentioned: and such certificate, for the purpose of registration in the registry office of the proper registry division of any deed of lands so sold for taxes, shall be deemed a memorial thereof; and the deed shall be registered, and a certificate of the registry thereof shall be granted by the registrar, on production to him of the deed and certificate, without further proof; and the registrar shall, for the registry and certificate thereof, be entitled to seventy cents and no more. 4 Edw. VII. c. 23, s. 170.

On what the sheriff gives a certificate of execution of conveyance after January 1st, 1851, and before 1st January, 1866, for registration.

176. The treasurer shall enter in a book, which the county council or council of the city or town as the case may be shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall, together with all documents relating to lands sold for taxes be by him kept among the records of his office. 4 Edw. VII. c. 23, s. 171.

Treasurer to enter in a book descriptions of lands conveyed to purchasers.

Deed to be binding if land not redeemed in one year.

177. If any part of the taxes for which any land has been sold, in pursuance of any Act heretofore in force in Ontario or of this Act, had at the time of the sale been in arrear for three years as mentioned in section 127, and the land is not redeemed in one year after the sale, such sale, and the official deed to the purchaser (provided the sale was openly and fairly conducted) shall notwithstanding any neglect, omission or error of the municipality or of any agent or officer thereof in respect of imposing or levying the said taxes or in any proceedings subsequent thereto be final and binding upon the former owner of the land and upon all persons claiming by, through or under him, it being intended by this Act that the owner of land shall be required to pay the taxes thereon within three years after the same are in arrear or redeem the land within one year after the sale thereof; and in default of the taxes being paid or the land being redeemed as aforesaid, the right to bring an action to set aside the said deed or to recover the said land shall be barred. 4 Edw. VII. c. 23, s. 172.

Deed valid if not questioned within a certain time.

178. Wherever land is sold for taxes and a tax deed thereof has been executed, the sale and the tax deeds shall be valid and binding, to all intents and purposes, except as against the Crown, unless questioned before some Court of competent jurisdiction within two years from the time of sale. 4 Edw. VII. c. 23, s. 173.

Certain treasurer's deeds not to be invalid if the sale is valid.

179. In all cases where land has been validly sold for taxes, the conveyance by the officer who made the sale, or by his successors in office, shall not be invalid by reason of the statute under the authority whereof the sale was made having been repealed at and before the time of such conveyance, or by reason of the officer who made the sale having gone out of office. 4 Edw. VII. c. 23, s. 174.

Rights of entry adverse to tax purchaser.

180. In all cases where land is sold for arrears of taxes whether such sale is or is not valid, then so far as regards rights of entry adverse to a *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, section 10 of *The Conveyancing and Law of Property Act* shall not apply, to the end and intent that in such cases the right or title of a person claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and sections 2, 4 and 6 of the statute passed in the 32nd year of the reign of King Henry VIII., and chaptered 9, be revived, and the same are and shall continue to be revived. 4 Edw. VII. c. 23, s. 175.

Rev. Stat. c. 109.

Common Law and 32 H. viii. c. 9, ss. 2, 4 and 6, revived.

Adjustment of damages when sale held to be invalid.

181.—(1) In all cases, not being within any of the exceptions and provisions of subsection 3, where land having been legally liable to be assessed for taxes, is sold for arrears of taxes, then in case an action is brought for the recovery of

the land and the sale is held to be invalid, damages shall be assessed for the defendant for the amount of the purchase money at the sale and interest thereon, and of all taxes paid by the defendant in respect of the lands since the sale and interest thereon, and of the value of any improvements made by the defendant before the commencement of the action, or by any person through or under whom he claims, less all just allowances for the timber sold off the lands, and all other just allowances to the plaintiff, and the value of the land to be recovered shall also be assessed less the value of any such improvements.

(2) If a judgment is pronounced for the plaintiff, no writ of possession shall issue until the expiration of one month thereafter nor until the plaintiff has paid into Court for the defendant the amount of such damages; or, if the defendant desires to retain the land, he may retain it, on paying into Court within the said period of one month, or on or before any subsequent day to be appointed by the Court, the value of the land as assessed at the trial; after which payment no writ of possession shall issue, but the plaintiff on filing in Court for the defendant a sufficient release and conveyance to the defendant of his right and title to the land in question, shall be entitled to the money so paid in by the defendant.

The plaintiff to pay damages into Court before writ of possession issues, or tax purchaser may elect to retain the land on paying its value.

(3) This section shall not apply in the following cases: When section not to apply:

(a) If the taxes for non-payment whereof the land was sold have been fully paid before the sale; if taxes paid before sale;

(b) If, within the period limited by law for redemption the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the person entitled to receive such payment, with a view to the redemption of the lands; if land redeemed;

(c) Where on the ground of fraud or evil practice by the purchaser at such sale, a Court would grant equitable relief. 4 Edw. VII. c. 23, s. 176. In case of fraud.

182.—(1) In any of the cases named in the next preceding section wherein the plaintiff is not tenant in fee simple, or fee tail, the payment into Court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the Supreme Court: and the plaintiff and all parties entitled to and interested in the said lands, as against the purchaser at such sale for taxes, on filing in the Supreme Court a sufficient release and conveyance to the defendant of their respective rights and interests in the land, shall be entitled to the money so paid in such proportions and shares as to the Supreme Court, regarding the interests of the various parties, seems proper.

Where the plaintiff is not tenant in fee, or in tail, the value of the land to be paid into Supreme Court

Payment into court where the defendant is not tenant in fee.

(2) In any of such cases wherein the defendant is not tenant in fee simple or fee tail, the payment of damages into Court to be made as aforesaid by the plaintiff shall be into the Supreme Court. 4 Edw. VII. c. 23, s. 177.

Any other person interested may pay in value assessed if defendant does not.

183.—(1) If the defendant does not pay into Court the value of the land assessed as aforesaid, within the period of one month, or on or before any subsequent day appointed by the Court, as mentioned in subsection 2 of section 181, any other person interested in the land under the sale or conveyance for taxes may, within ninety days after the date of the pronouncing of the judgment in subsection 2 of section 181 mentioned, or before any subsequent day appointed by the Court as in said subsection mentioned, for payment by the defendant, pay into Court the said value of the land; and till the expiration of the time within which such payment may be made, and after such payment, no writ of possession shall issue.

The payer to have a lien for such proportion as exceeds his interest.

(2) The defendant or other person so paying in shall be entitled as against all others interested in the land under the sale or conveyance for taxes, to a lien on the land for such amount as exceeds the proportionate value of his interest enforceable in such manner and in such shares and proportions as to the Supreme Court, regarding the interests of the various parties, and on hearing the parties, seems fit. 4 Edw. VII. c. 23, s. 178.

How the owner can obtain the value of the land paid in.

184. In case the defendant or any other person interested pays into Court in manner aforesaid, the plaintiff shall be entitled to the amount so paid in, on filing in Court a sufficient release and conveyance to the person so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such person, to secure his lien as aforesaid. 4 Edw. VII. c. 23, s. 179.

How the value of improvements, etc., paid in can be obtained.

185. If the value of the land is not paid into Court as above provided, the damages paid into the Supreme Court shall be paid out to the various persons, who, if the sale for taxes were valid would be entitled to the land, in such shares and proportions as to the Supreme Court regarding the interests of the various parties, seems fit. 4 Edw. VII. c. 23, s. 180

Provisions as to costs in cases where value of the land and improvements, etc., only in question.

186.—(1) In all actions for the recovery of land in which both the plaintiff (if his title were good) would be entitled in fee simple or fee tail, and the defendant (if his title were good) would be also so entitled, if the defendant, at the time of appearing gave notice in writing to the plaintiff in such action or to his solicitor named in the writ of the amount claimed, and that on payment of such amount, the defendant or person in possession will surrender the possession to the plaintiff; or that he desired to retain the land, and was ready

and willing to pay the Court a sum mentioned in the said notice as the value of the land, and that the defendant did not intend at the trial to contest the title of the plaintiff; and if the jury, or the Judge, if there be no jury, before whom the action is tried, assess damages for the defendant as provided in the next preceding five sections and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or to obtain damages, the Judge before whom the action is tried shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence in the same manner as if the plaintiff had been nonsuited on the trial, or a verdict had been rendered for the defendant.

(2) If on the trial it is found that such notice was not given as aforesaid, or if the Judge or jury assess for the defendant a less amount than that claimed in the notice, or find that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the land), that the value of the land is greater than the amount mentioned in the notice, or that he has omitted to pay into Court the amount mentioned in the notice for thirty days after the plaintiff had given to the defendant a written notice that he did not intend to contest the value of the land, the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff; and upon the trial of any action after such notice, no evidence shall be required in proof of the title of the plaintiff. 4 Edw. VII. c. 23, s. 181.

187. In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser shall have a lien on the lands for the purchase money paid at the sale, and interest thereon at the rate of ten per cent. per annum, and for the taxes paid by him since the sale and interest thereon at the rate aforesaid, to be enforced against the land in such proportions as regards the various owners, and in such manner as the Supreme Court thinks proper. 4 Edw. VII. c. 23, s. 182.

Tax purchaser without other remedy whose title is invalid to have a lien on the land for purchase money, etc.

188. No valid contract entered into between any tax purchaser and original owner, in regard to any land sold or assumed to have been sold for taxes, as to purchase, lease or otherwise, shall be annulled or interfered with by this Act, but such contract and all consequences thereof, as to admission of title or otherwise shall remain in force as if this Act had not been passed. 4 Edw. VII. c. 23, s. 183.

Contracts between tax purchaser and original owner continued.

189. Nothing in the next preceding nine sections of this Act shall affect the right or title of the owner of any land sold for taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupa-

Sections 180 to 188 not to apply where the owner has occupied since sale.

tion of the land, and the same has since the sale been in the occupation of such owner or of those claiming through or under him. 4 Edw. VII. c. 23, s. 184.

Construction
of "Tax-pur-
chaser," "Ori-
ginal owner."

190. In the construction of the next preceding eleven sections of this Act, occupation by a tenant shall be deemed the occupation of the reversioner; and the words "tax purchaser" shall apply to any person who purchases at any sale under colour of any statute authorizing sale of land for taxes and shall include and extend to all persons claiming through or under him; and the words "original owner" shall include and extend to any person who, at the time of such sale, was interested in or entitled to the land sold, or assumed to be sold, and to all persons claiming through or under him. 4 Edw. VII. c. 23, s. 185.

ARREARS OF TAXES IN CITIES AND TOWNS.

Collections of
arrears of
taxes in cities
or towns.

191. In cities and towns arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities; and for such purposes the municipal officers of cities and towns shall perform the same duties and have the same powers as the like officers in other municipalities under sections 122 to 190; and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively, and shall have the like powers; and words referring to the county treasurer or warden shall as to a city or town be taken and deemed to refer to the mayor and treasurer of such city or town. Provided, however, that in cities and towns the performance of any such duty after the date or within a longer time than hereinbefore set out shall not render any proceeding under this Act invalid or illegal so long as the provisions of this Act are in other respects duly complied with. 4 Edw. VII. c. 23, s. 186.

Proviso.

ARREARS OF TAXES IN CERTAIN TOWNSHIPS.

Sale or land
for taxes in
certain town-
ships.

192.—(1) All powers conferred upon cities and towns by section 191, or any of the sections referred to in that section, and all duties imposed by said sections upon the officers of such cities and towns, and the mayors thereof, shall hereafter be vested in and apply to the Townships of York, Scarborough and Etobicoke, in the County of York, to the Township of Bertie in the County of Welland, and to the reeves of said townships, and for the purposes of the collection of arrears of taxes on lands therein and the sale of such lands for taxes, the said townships shall be considered as towns, and wherever the word "town" occurs in any of the said sections it shall be held to apply to and include the said townships, and wherever the word "mayor" occurs in

the said sections it shall be held to apply to the reeve of each of the said townships for the time being. 4 Edw. VII. c. 23, s. 187 (1); 3-4 Geo. V. c. 46, s. 16.

(2) This section shall not in any way alter or affect the ^{58 V. c. 94,} Act passed in the 58th year of Her late Majesty's reign and ^{not affected} Chaptered 94 or the by-laws confirmed thereby. 4 Edw. VII. c. 23, s. 187 (2).

TAX SALES IN PROVISIONAL JUDICIAL DISTRICTS.

193. Subject to the provisions of section 194, arrears of ^{collection of} taxes due to the corporation of any municipality in a ^{taxes and sales} Provisional Judicial District, shall be collected and managed in ^{of land for} the same way as like arrears due to municipalities in coun- ^{taxes.} ties; and the treasurer and head of such municipality shall perform the like duties in the collection and management of arrears of taxes as in a county are performed by the treasurer and warden. 3-4 Geo. V. c. 46, s. 15, *part*.

194.—(1) The powers and duties imposed by this Act ^{Sale of land} upon the treasurer of a county in respect to the collection ^{for taxes.} of arrears of taxes, and the sale of land for taxes, shall, in the districts of Muskoka and Parry Sound, be exercised and performed by the sheriffs of those districts respectively; and all the provisions of this Act respecting the sale of lands for taxes in a county shall apply *mutatis mutandis* to sales under this section; and all duties and proceedings required to be performed by the officers of local municipalities in counties in regard to the collection of such arrears upon lists received from county treasurers shall be performed by the like officers of the municipality in respect to similar lists received from the sheriff of the districts.

(2) Where any part of the taxes on lands in the districts ^{When lands to} of Muskoka and Parry Sound has been due for and in the ^{be sold for} third year, or for more than three years preceding the then ^{taxes.} current year, the sheriff of the district unless otherwise directed by a by-law of the council of any municipality in the district, shall make out a list in duplicate of all the lands liable under the provisions of this Act to be sold for taxes in every municipality in the district, with the amount of arrears against each lot set opposite to the same, and shall transmit the same to the head of the municipality in which the lands are situate, and such head shall authenticate the list by affixing thereto the seal of the corporation and his signature, and one of the lists shall be deposited with the clerk of the municipality, and the other shall be returned to the sheriff with a warrant thereto annexed under the hand of such head and the seal of the Corporation commanding him to levy upon the lands for the arrears due thereon, with his costs.

(3) Where lands liable to sale for taxes are situate in the ^{Place of sale.} townships of McMurrich, Ryerson, Strong, Laurier, Nipis-

sing, Perry, Armour, Joly, Gurd, Bethune, Proudfoot, Machar, Himsworth, or in the villages of Sundridge or Burk's Falls the sale of such lands for taxes shall take place at Burk's Falls.

(4) Where the lands are situate in the townships of Spence, Ferrie, Pringle, Croft, Lount, Hardy, Chapman, Mills, or Patterson, the sale shall take place at Maganetawan village.

(5) Where the lands are situate in the townships of Conger, Humphrey, Monteith, Carling, Shawanaga, Harrison, Wallbridge, Mowat, Cowper, McDougall, McKellar, Hagerman, McKenzie, Wilson, McConkey, Foley, Christie, Ferguson, Burpee, Burton, Brown, Blair, the town of Parry Sound, or other parts of the District of Parry Sound not named in this section, the sale shall take place at the town of Parry Sound.

(6) Where the lands are situate in the townships of Medora, Wood, Morrison, Muskoka, Ryde, Baxter, Gibson, or Freeman, the town of Gravenhurst, or the village of Port Carling, the sale shall take place at the town of Gravenhurst.

(7) Where the lands are situate in the townships of Chaffey, Brunel, Stisted, Stephenson or Sinclair, or in the Village of Huntsville, the sale shall take place at the said village of Huntsville.

(8) Where the lands are situate in the townships of Cardwell, Watt, Monck, McLean, Ridout, Macaulay, Draper, Oakley or other parts of Muskoka not named in this section, the sale shall take place at the town of Bracebridge.

Change of
place of sale.

(9) On an application of the council of any township the place of sale may be directed by the Lieutenant-Governor in Council to be transferred thereafter from any one of the places herein named to any other of them.

Advertisements of sale.

(10) The advertisements for the sale shall be published in the *Ontario Gazette* and in some newspaper published at the place of sale or elsewhere in the District and for the periods required by law.

Allowances to
sheriffs for
collection of
taxes.

(11) A Judge of the District Court may, by his order in writing direct that the said sheriff shall be entitled to retain out of the moneys collected by him in the performance of his duties, with respect to the collection of taxes, a sum over and above the two and one-half per centum mentioned in section 166, but such sum, including the two and one-half per centum shall not exceed ten per centum of the amount of the arrears of taxes collected.

Sheriffs to pay
over amounts
received
half-yearly.

(12) The sheriff shall on the first day of June and December in each year, pay over to the treasurers of the respective municipalities in his district all money collected by him

prior to those said dates in respect of lands in arrears for taxes.

(13) The books and accounts of the sheriff shall be audited Audit of sheriff's books. on or before the 30th day of September in each year by the Crown Attorney of the District. 3-4 Geo. V. c. 46, s. 15, *part.*

DEFICIENCY FROM NON-PAYMENT OF CERTAIN TAXES PROVIDED FOR.

195. Every municipal council, in paying over any school or local rate, or its share of any county rate, or of any other tax or rate lawfully imposed for Provincial or local purposes, shall supply, out of the funds of the municipality, any deficiency arising from the non-payment of the tax, but shall not be held answerable for any deficiency arising from the abatements of, or inability to collect, any taxes other than for county rates. 4 Edw. VII. c. 23, s. 188. Deficiency in certain taxes to be supplied by local municipality.

DEBENTURES ON CREDIT OF ARREARS OF TAXES.

196.—(1) The council of any municipality, whose officers have power to sell lands for arrears of taxes, may from time to time, without the assent of the ratepayers, by by-law authorize the mayor or other head of the municipality to issue, under the corporate seal, upon the credit of the taxes in arrear in the municipality, debentures payable not later than eight years after the date thereof, and for sums not less than \$100 each, so that the whole of the debentures at any time issued and unpaid do not exceed one-half of all the arrears then due and owing upon land in the municipality, together with the money standing to the credit of the special fund hereinafter provided. Issue of debentures on credit of arrears of taxes authorized

(2) Such debentures shall be negotiated by the mayor or other head of the municipality and treasurer, and all money received in payment of taxes upon the security of which such debentures are issued shall be set apart as a special fund out of which to pay the debentures and interest thereon. Special fund.

(3) If at any time there is not to the credit of such special fund sufficient money to redeem the debentures due and accrued interest, such debentures and interest shall be payable out of the general funds of the municipality, and the payment thereof may be enforced in the same manner as is by law provided in the case of other debentures. 4 Edw. VII. c. 23, s. 189. Deficiency in special fund.

ARREARS OF TAXES IN NEW MUNICIPALITIES.

197. Upon the incorporation of any new town, in any county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situated in the newly incorporated town, and shall transmit On incorporation of new town, county treasurer to transmit list of arrears to town treasurer.

the same to the treasurer of the town, who, after receipt of the said list, shall have, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes and for enforcement of the same by sale; but in such list the county treasurer shall not include any lot then advertised for sale for taxes. 4 Edw. VII. c. 23, s. 190.

Arrears of
taxes, how
collected,
where new
municipality
formed.

198. In cases where a new local municipality is formed from two or more municipalities or portions of two or more municipalities situated in different counties, the collection of arrears of taxes due at the time of formation shall be made by the treasurer of the county in which the new municipality is situate, if the new municipality is a township or village, or if the new municipality is a town, by the treasurer of such town; and for the purpose of enabling him to make the collection, the treasurer or the treasurers of the other county or counties from which any portion of the new municipality is detached, shall immediately upon the formation thereof make out lists of the arrears of taxes then due in their respective portions, and transmit the same to the treasurer of the county in which the new municipality is situate, or of the town as the case may be; and where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality. 4 Edw. VII. c. 23, s. 191.

Who may
take proceed-
ings to enforce
collection.

199. The treasurer and warden of the county in which the new municipality, if it be a township or village, is situate, and the treasurer and mayor of the new municipality, if it be a town, shall have power, respectively, to take for the collection of such arrears of taxes all the proceedings which treasurers and wardens or treasurers and mayors can take for the sale and conveyance of land in arrear for taxes; and in case the lands in the new municipality have been advertised by the treasurer or treasurers of the county or counties of which the new municipality formed part before its formation, the sale of such lands shall be completed in the same manner as if such new municipality had not been formed. 4 Edw. VII. c. 23, s. 192.

Proceedings
where returns
made to
treasurer
before
separation.

200. Where a municipality or part of a municipality has been or is hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged, of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the former county, such treasurer shall return to the treasurer of the county of which such territory belongs a list of all the lands within such territory returned as in arrear for taxes and not advertised; and the treasurer and warden of the county to which the territory belongs shall have power respectively to take all the proceedings which treasurers and wardens under this Act can

take for the sale and conveyance of lands in arrear for taxes; but in case the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. 4 Edw. VII. c. 23, s. 193.

201. Where a municipality or any part of a municipality has been or is hereafter separated from a county and included in a city or town separated from the county for municipal purposes, after a return has been made to the treasurer of the county of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the county, such treasurer shall return to the treasurer of the city or town a list of all the lands within such territory returned as in arrear for taxes and not advertised; and the treasurer and mayor of the city or town shall have power to take all the proceedings which treasurers and wardens under this Act can take for the sale and conveyance of lands in arrear for taxes; but in case the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyance of lands previously sold shall be made in like manner. 4 Edw. VII. c. 23, s. 194.

Sales for taxes on lands which have been annexed to city or separated town.

RESPONSIBILITY OF OFFICERS.

202. Every treasurer and collector, before entering on the duties of his office, shall enter into a bond to the corporation for the faithful performance of his duties. 4 Edw. VII. c. 23, s. 195.

Security by treasurers and collectors.

203. Subject to the provisions of *The Guarantee Companies Securities Act*, such bond shall be given by the officer and two more sufficient sureties, in such sum and in such manner as the council by any by-law in that behalf may require, and shall conform to all the provisions of such by-law. 4 Edw. VII. c. 23, s. 196.

Bonds with sureties. Rev. Stat. c. 190.

204. Any treasurer, assessor, clerk or other officer who refuses or neglects to perform any duty required of him by this Act, and no other penalty is imposed, shall incur a penalty not exceeding \$100. 10 Edw. VII. c. 88, s. 32.

Penalty on officers failing to perform their duty, and how enforced.

205. If an assessor neglects or omits to perform his duties the other assessor, or other assessors (if there be more than one for the same locality), or one of such assessors, shall, until a new appointment, perform the duties; and any council may, after an assessor neglects or omits to perform his duties, appoint some other person to discharge such duties; and the assessor so appointed shall have all the powers and be entitled to all the emoluments which appertain to the office. 4 Edw. VII. c. 23, s. 198.

Other assessors may act for those in default.

Penalty for unjust or fraudulent assessment.

206. Any clerk, treasurer, assessment commissioner, assessor or collector, or any assistant or other person in the employment of the municipality, acting under this Act, who makes an unjust or fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts, or permits to be inserted therein the name of any person which should not be entered, or fraudulently omits, or allows to be omitted, the name of any person which should be entered, or wilfully omits any duty required of him by this Act, shall incur a penalty not exceeding \$200, or shall be liable, in the discretion of the convicting justice, to imprisonment for any period not exceeding six months, or to both such penalty and imprisonment. 10 Edw. VII. c. 88, s. 33.

Penalty for neglect to make out roll.

207. Any assessor of any township, village or ward, who neglects or omits to make out and complete his assessment roll for the township, village or ward, and to return the same to the clerk of such township or village, or of the city or town in which such ward is situated, or to the proper officer or place of deposit of such roll within the prescribed period, shall incur a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 35.

Proceedings for compelling collectors to pay over moneys collected to the proper treasurer.

208. If a collector refuses or neglects to pay to the proper treasurer, or other person legally authorized to receive the same, the sums contained in his roll, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant, under his hand and seal, directed to the sheriff of the county or city (as the case may be), commanding him to levy of the goods, chattels, lands and tenements of the collector and his sureties, such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. 4 Edw. VII. c. 23, s. 202.

Warrant to be delivered to sheriff, etc.

209. The treasurer shall immediately deliver the warrant to the sheriff of the county or city, as the case may require. 4 Edw. VII. c. 23, s. 203.

Sheriff, etc., to execute it and pay money levied.

210. The sheriff to whom the warrant is directed shall within forty days, cause the same to be executed and make return thereof to the treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of courts of record. 4 Edw. VII. c. 23, s. 204.

Mode of compelling sheriff, etc., to pay over.

211. If a sheriff refuses or neglects to levy any money when so commanded, or to pay over the same, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the treasurer

may, upon affidavit of the facts, apply in a summary manner to the Supreme Court, or to a Judge thereof, for an order *nisi* or summons calling on the sheriff to answer the matter of the affidavit. 4 Edw. VII. c. 23, s. 205.

212. The order *nisi* or summons shall be returnable at such time as the Court or Judge directs. 4 Edw. VII. c. 23, s. 206. When returnable.

213. Upon the return of the order *nisi* or summons, the Court or Judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matter of the application. 4 Edw. VII. c. 23, s. 207. If returnable.

214. If the Court or Judge is of opinion that the sheriff has been guilty of the dereliction alleged against him, the Court or Judge shall order the proper officer of the Court to issue a writ of *fiery facias*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town (as the case may be) for which the collector is in default. 4 Edw. VII. c. 23, s. 208. Fi. fa. to the coroner to levy the money.

215. The writ shall direct the coroner to levy of the goods and chattels of the sheriff, the sum which the sheriff was ordered to levy by the warrant of the treasurer, together with the costs of the application and of the writ and of its execution; and the writ shall bear date on the day of its issue, and shall be returnable forthwith on its being executed; and the coroner, upon executing the same, shall be entitled to the same fees as upon a writ grounded upon a judgment of the Court. 4 Edw. VII. c. 23, s. 209. Fees of such writ.

216. A sheriff who wilfully omits to perform any duty required of him by this Act shall be liable to a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 36. Penalty on sheriff.

217. All money assessed, levied and collected for the purpose of being paid to the Treasurer of Ontario, or to any other public officer, for the public uses of Ontario, or for any special purpose or use mentioned in the Act under which the same is raised, shall be assessed, levied and collected by, and accounted for and paid over to the same persons, in the same manner, and at the same time as taxes imposed on the same property for county, city or town purposes and shall be deemed and taken to be money collected for the county, city or town, so far as to charge every collector, or treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of money assessed, levied and collected for the use of the county, city or town. 4 Edw. VII. c. 23, s. 211. Payment of money collected for the Province.

How money collected for county purposes to be paid over.

218. All money collected for county purposes, or for any of the purposes mentioned in the next preceding section, shall be payable by the collector to the township, town or village treasurer, and by him to the county treasurer; and the corporation of the township, town or village shall be responsible therefor to the corporation of the county. 4 Edw. VII. c. 23, s. 212.

Collectors or treasurers bound to account for all moneys collected by them.

219. Any bond or security given by the collector or treasurer to the corporation of the township, town or village, to account for and pay over all money collected or received by him, shall apply to money collected or received for county purposes, or for any of the purposes mentioned in section 226. 4 Edw. VII. c. 23, s. 213.

Local treasurer to pay over county moneys to county treasurer.

220. The treasurer of every township, town or village shall, on or before the 20th day of December in each year pay to the treasurer of the county all moneys which were assessed and by law required to be levied and collected in the municipality for county purposes or for any of the purposes mentioned in section 217, and in case of non-payment of such moneys or any portion thereof on or before the said date the township, town or village so in default shall pay to the county interest thereon at the rate of six per cent. per annum from the said date until payment shall be made. 6 Edw. VII. c. 36, s. 19; 10 Edw. VII. c. 88, s. 25.

Mode of enforcing such payments.

221. If default be made in such payment, the county treasurer may retain or stop a like amount out of any money which would otherwise be payable by him to the municipality, or may recover the same by an action against the municipality, or where the same has been in arrear for three months, he may, by warrant under his hand and seal, reciting the facts, direct the sheriff of the county to levy and collect the amount due with interest and costs from the municipality in default. 4 Edw. VII. c. 23, s. 215.

Warrant to sheriff.

How sheriff to make levy.

222. The sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs in the same manner as is provided by *The Execution Act*, in the case of executions against municipal corporations. 4 Edw. VII. c. 23, s. 216.

Rev. Stat. c. 80.

Treasurer, etc., to account for and pay over Crown moneys.

223. The county, city or town treasurer shall be accountable and responsible to the Crown for all money collected for any of the purposes mentioned in section 217, and shall pay over such money to the Treasurer of Ontario. 4 Edw. VII. c. 23, s. 217.

Municipality responsible or such moneys.

224. Every county, city and town shall be responsible to His Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the county, city or town in virtue of his office, shall be by him duly paid

over and accounted for according to law. 4 Edw. VII. c. 23, s. 218.

225. The treasurer and his sureties shall be responsible and accountable for such money to the county, city or town; and any bond or security given by them for the duly accounting for and paying over money belonging to the county, city or town, shall apply to all money mentioned in section 217 and may be enforced against the treasurer or his sureties in case of default. 4 Edw. VII. c. 23, s. 219.

Treasurer, etc., responsible to county, city or town.
Bonds to apply.

226. The bond of the treasurer and his sureties shall apply to school money, and to all public money of Ontario; and, in case of default, His Majesty may enforce the responsibility of the county, city or town, by stopping a like amount out of any public money which would otherwise be payable to the county, city or town or to the treasurer thereof, or by action against the corporation. 4 Edw. VII. c. 23, s. 220.

Bonds to apply to school money.

227. Any person aggrieved by the default of the treasurer may recover from the corporation of the county, city or town the amount due or payable to such person as money had and received to his use. 4 Edw. VII. c. 23, s. 221.

City, etc., responsible for default of treasurer, etc.

MISCELLANEOUS.

228. Any affidavit or oath required by this Act to be made may be made before any Justice of the Peace having jurisdiction in the municipality or any commissioner for taking affidavits or any notary public for the Province. 4 Edw. VII. c. 23, s. 222.

Oaths and affidavits.

229. Any person who wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, shall incur a penalty not exceeding \$20. 10 Edw. VII. c. 88, s. 37.

Tearing down notices, etc.

230. Prosecutions for contraventions of this Act where a penalty or imprisonment is imposed, shall be had under *The Ontario Summary Convictions Act*. 10 Edw. VII. c. 88, s. 38.

Recovery of penalties.
Rev Stat c. 80.

231. When not otherwise provided all penalties recovered under this Act shall be paid to the treasurer to the use of the municipality. 4 Edw. VII. c. 23, s. 225.

Application of penalties.

232. In addition to the penalties and punishments provided for by this Act for a contravention of the provisions thereof, the person guilty of such contravention shall be liable to every person who is thereby injured for the dam-

Right of action for damages against officer.

ages sustained by such person by reason of such contravention. 10 Edw. VII. c. 88, s. 39.

By-laws and agreements fixing assessments or granting exemption from taxation not affected.

233. This Act shall not affect the terms of any agreement made with a municipal corporation, or any by-law heretofore or hereafter passed by a municipal council under any other Act for fixing the assessment of any property, or for commuting or otherwise relating to municipal taxation. But whenever in any Act of this Legislature or by any Proclamation of the Lieutenant-Governor in Council or by any valid by-law of a municipality heretofore passed or by any valid agreement heretofore entered into the assessment of the real and personal property of any person in a municipality is fixed at a certain amount for a period of years, unexpired at the time of the coming into force of this Act, or the taxes payable annually by any person in respect to the real and personal property are fixed at a stated amount during any such period, or the real and personal property of any person or any part thereof is exempt from municipal taxation in whole or in part for any such period, such fixed assessment, or commutation of taxes or exemption shall be deemed to include any business assessment or other assessment and any taxes thereon in respect to the property or business mentioned in such Act, Proclamation, by-law or agreement to which such person or the property of such person would otherwise be liable under the provisions of this Act. 4 Edw. VII. c. 23, s. 226.

EXEMPTION OF WOODLANDS FROM TAXATION.

By-law exempting woodlands.

234.—(1) The council of any township may by by-law exempt in whole or in part from municipal taxation, including school rates, lands in the township being “woodlands” within the meaning of this section. Provided that such by-law shall not exempt more than one acre in ten for such “woodlands,” and not more than twenty-five acres held under a single ownership. 6 Edw. VII. c. 42, s. 1; 7 Edw. VII. c. 23, s. 31.

“Woodlands,” what to be included in.

(2) “Woodlands” within the meaning of this section shall be lands having not less than 400 trees per acre of all sizes, or 300 trees, measuring over 2 inches in diameter, or 200, measuring over 5 inches in diameter, or 100, measuring over 8 inches in diameter (all such measurements to be taken at 4½ feet from the ground) of one or more of the following kinds: White or Norway pine, white or Norway spruce, hemlock, tamarac, oak, ash, elm, hickory, basswood, tulip, (white-wood), black cherry, walnut, butternut, chestnut, hard maple, soft maple, cedar, sycamore, beech, black locust, or catalpa, or any other variety which the council may name in such by-law; and which said lands have been set apart by the owner for the sole purpose of fostering the growth

of the trees thereon and which are not used for grazing live stock. 6 Edw. VII. c. 42, s. 2.

(3) Woodland owners desiring to secure exemption from taxation shall make application in writing to the clerk of the township on or before the first day of February of the year in which they desire that the exemption shall take effect. 6 Edw. VII. c. 42, s. 3.

Application for exemption.

(4) Upon such application being made by the owners of such Woodlands, it shall be the duty of the township assessor to personally examine such "woodlands" to determine whether they come within the meaning of this section, and the said assessor may, if he deem it necessary, demand from the applicant or his agent, that such owner or his agent make a statutory declaration, setting forth that the said lands fulfil the requirements of this section, and the said assessor shall make returns to the clerk of the township of any such lands entitled to exemption for the current year, and shall give in said returns the name of the owner, the area entitled to exemption, and the year in which the exemption shall first go into effect.

Examination by assessor.

(5) If at any time after the granting of any exemption under this section, it appears to the council that the exempted lands or part thereof have been used for grazing live stock, or are not "woodlands" as defined in this section, the council shall direct that the exemption shall cease forthwith, and may direct the clerk of the township to enter, and the clerk shall enter, such lands or part thereof on the next collector's roll whether for non-resident or resident owners, as the case may require, for the full amount of all taxes remitted during the five years immediately preceding the date on which the council shall direct that the exemption shall cease.

Exemption to cease when lands used for other purposes.

(6) Any assessor who shall knowingly and wilfully make fraudulent returns respecting any such lands, or any owner or agent who shall knowingly and wilfully make a fraudulent declaration respecting such lands, or a fraudulent application to have the same made exempt under this section, shall in addition to any other punishment provided by law, be liable to a fine of not more than \$300, or imprisonment for not more than six months, or either or both, at the discretion of the court, and proceedings may be taken to recover any such penalty under *The Ontario Summary Convictions Act*.

Penalty for fraud.

Rev. Stat. c. 93.

FORM 1.

(Section 8.)

FORM OF AFFIDAVIT TO BE MADE BY A PERSON DESIRING TO BE
ASSESSED IN RESPECT OF EXEMPTED INCOME

I, _____ make oath and say as follows:

(1) I am _____ and I am a _____ resident in the
of _____ residing at _____ (giving where possible name of street
and number of house).

(2) I am in receipt of an annual income of \$ _____

(3) I desire to be assessed in respect of such income, for the
purpose of being entitled to vote at municipal elections, and that
my name be duly entered in the assessment roll accordingly for the
current year.

Sworn before me at _____ in the County
of _____ this _____ day of _____ 19 ____
J.P., etc.

J.S.

4 Edw. VII. c. 23, Sched. A.

FORM 2.

(Section 18.)

FORMS OF ASSESSMENT RETURNS.

NOTICE TO RATEPAYERS.

(City of _____)

Pursuant to *The Assessment Act* you are hereby required to fill
up such of the following returns as are applicable to your case, and
to deliver the same to me at my office, No. _____ Street, _____ within
ten days from the delivery or mailing, as the case may be, to you
of this notice, under the penalty contained in the said Act for
neglect so to do.

Dated this _____ day of _____ 19 ____

No. 1.

GENERAL RETURN.

(or CITY, TOWN or VILLAGE) OF

TOWNSHIP OF

CON.

STREET

SIDE.

2	Names and description of persons assessed.		Description of Real Property.										Assessed values of Land and Buildings.					Statistics					Statute Labour.		Dog Tax.		Remarks.
3	4	5	6	7	8	9	10	11	12	13	14	15	17	18	22	23	24	25	26	28	29	27	30	32			
Name (surname first) of person taxable (owners and tenants of land and persons otherwise taxable).	Age.	Occupation, and in the case of females S. M. or W., and in case of non-resident N. R.	Number of Concession, name of street, etc., or other local designation of the local division in which the land lies or residence, in case of persons not assessable for land or in the case of man- hood suffrage, voters, etc.	Number of lot, house, etc., in such division.	Number of acres or other measure showing the extent of the property.	Number of acres cleared or in cities, towns or villages whether vacant or built upon).	Number of acres of woodland.	Number of acres of slash land.	Number of acres of swamp, marsh or waste land.	Value of land exclusive of buildings.	Value of buildings.	Total value of real property.	Total value of land liable for school rates only.	Total value of property exempt from taxation, or liable for local improvements only.	Religion.	Number of School Section.	Public or Separate School support.—(P. or S.)	Number of children between the ages of 5 and 21.	Number of children between the ages of 5 and 16.	Number on persons in the family including such as a resident, other persons residing on the premises.	Births.	Deaths.	Number of persons from 21 to 60.	Number of dogs.	Number of bitches.		

AFFIDAVIT.

I hereby make oath that I have knowledge of the particulars contained in the foregoing statement and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Sworn before me at _____ in the County of _____ this _____ day of _____ A. D. 19____ Signature.

No. 2.

RETURN TO BE DELIVERED BY ALL PERSONS AS TO THEIR INCOME.

Name.

Occupation.

Address of Residence.

Address of place of business.

1. Income from Profession or Calling in this Municipality.
(Insert full particulars.)
2. Income wheresoever derived, from Mortgages.
(Insert full particulars.)
3. Income, wheresoever derived, from Bonds, Stocks, Debentures,
Personal Securities, and from money lent or invested on
any other securities, or on bank deposit, or without security.
(Insert full particulars.)
4. Taxable income from any other source.
(Insert full particulars.)

AFFIDAVIT.

(To be inserted at the end of each return.)

I hereby make oath that I have knowledge of the particulars contained in the foregoing statement and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Sworn before me at
in the County of
this day of 19 .

(Signature.)

4 Edw. VII. c. 23, Sched. E.

FORM 3.

(Section 26.)

FORM OF AFFIDAVIT BY PERSON CLAIMING TO BE PLACED ON THE
ASSESSMENT ROLL AS A VOTER.

I, _____ make oath and say as follows:

I am a British subject by birth (or naturalization) and I am not a citizen or a subject of any foreign country and I have resided in the Dominion of Canada for the nine months next preceding the _____ day of _____ in the present year (the day to be filled in here is the date on which by Statute or by-law the Assessor is to begin making his roll.)

I was at the said date in good faith a resident of and domiciled in (giving name of municipality for which the assessor is making his roll), and I have resided therein continuously from the said date, and I now reside therein at (here give the deponent's residence by the number thereof, if any, and the street or locality whereon or wherein the same is situated, if in a town or village. If the residence is in a township, give the concession wherein, and the lot or part of lot whereon it is situated.)

I am of the full age of 21 years, and am not disqualified under The Ontario Election Act or otherwise by law prohibited from voting at elections for the Legislative Assembly of Ontario.

Sworn before me at _____ in the County
of _____ this _____ day of _____ 19 _____
(Signature of Voter.)

Signature of J.P., etc.

(This oath may be taken before any Assessor or any Justice of the Peace, Commissioner for taking Affidavits, or Notary Public.)

FORM OF AFFIDAVIT FOR SAME PURPOSE AS PRECEDING ONE.

But where the person has been temporarily absent from the municipality.

I, _____ make oath and say as follows:

I am a British subject by birth (*or naturalization*) and I am not a citizen or a subject of any foreign country and I have resided in the Dominion of Canada for the nine months next preceding the _____ day of _____ in the present year (*the day to be filled in here is the date on which by Statute or by-law the Assessor is to begin making his roll.*)

I was at the said date in good faith a resident of and domiciled in (*giving name of municipality for which the assessor is making his roll*), and I have resided therein continuously from the said date, and I now reside therein at (*here give the deponent's residence by the number thereof, if any, and the street or locality whereon or wherein the same is situated, if in a town or village. If the residence is in a township, give the concession wherein, and the lot or part of lot whereon it is situated.*)

And I have not been absent from Ontario during the said nine months except occasionally or temporarily or as a member of a permanent militia corps enlisted for continuous service or on service as a member of the active militia, or as a student in attendance at an institution of learning in the Dominion of Canada, that is to say (*here name institution*) as the case may be.

I am of the full age of 21 years, and am not disqualified under *The Ontario Election Act* or otherwise by law prohibited from voting at elections for the Legislative Assembly of Ontario.

Sworn before me at _____ in the County
of _____ this _____ day of _____ 19____
(*Signature of Voter.*)

(*Signature of J.P., or Commissioner, etc.*)

(*The oath may be taken before any Assessor or any Justice of the Peace, Commissioner for taking Affidavits, or Notary Public.*)

4 Edw. VII. c. 23, Sched. A., Form 2; 7 Edw. VII. c. 23, s. 54.

FORM 4.

(Section 33.)

CENSUS of all children between the ages of eight and fourteen in the city, town, village or township (as the case may be), of

Assessor.

Name of Child.	Age.	Parent or Guardian.	Public or Separate School Supporter.	Residence.

4 Edw. VII. c. 23, *Sched. C.*; 8 Edw. VII. c. 50, s. 6.

FORM 5.

(Section 37, subsection 6.)

FORM OF NOTICE BY NON-RESIDENT OWNER OF LAND REQUIRING TO
BE ASSESSED THEREFOR.

To the Clerk of the Municipality of

Take notice that I (or we) own the land hereunder mentioned, and require to be assessed, and to have my name (or our names) entered therefor on the Assessment roll of the Municipality of

That my (or our) full name (or names), place of residence and Post Office Address, are as follows:

A.B., of the Township of York, shoemaker, Weston Post Office (as the case may be). Description of land (here give such description as will readily lead to the identification of the land.)

Dated the day of , 19 .

C.D.

Witness, G.H.

4 Edw. VII. c. 23, *Sched. D.*

FORM 6.
(Section 49.)

ASSESSMENT NOTICE FOR 19

TOWNSHIP OF
(or CITY, TOWN, or VILLAGE) OF
CON.

WARD No.
SIDE.

No. on Roll	Name and description of person assessed.		"F" or "M" "M F" "F S"	School Supporter.	Description of real property.		Assessment of land and buildings.					Assessment for personal taxes.	
	Name.	Occupation.			No. of lot or house.	No. of concession, street or other designa- tion of local division.	Actual value of land.	Value of build- ings.	Total actual value of real property.	Total value of real property liable for school tax only.	Total value of real property liable for local improve- ments only.	For business assessment.	For income.
				"P" or "S" (Public or Sch. rate Sch. of Supporter).			\$	\$	\$	\$	\$	\$	

Take notice that you are assessed as above specified for the year 19 . If you deem yourself overcharged or otherwise improperly assessed, you or your agent may notify the Clerk of the Municipality (or Assessment Commissioner) in writing of such overcharge or improper assessment, within fourteen days after the day of (insert date on which the Assessment Roll was returned), and your complaint shall be tried by the Court of Revision for the Municipality of
Notice Delivered,

19 .
Sir:—Take notice that I intend to appeal against this assessment (INDORSED) for the following reasons:
I am, Sir, your obedient servant
A. B. Township Clerk
or Assessment Commissioner.
Note—In the case of a Municipality in which there are supporters of a Roman Catholic Separate School therein or contiguous thereto the notice required by Section 31 must also be added.

FORM 7.

(Section 50.)

AFFIDAVIT OR AFFIRMATION OF ASSESSOR IN VERIFICATION OF ASSESSMENT ROLL.

I, (name and residence) make oath and say (or solemnly declare and affirm) as follows:—

1. I have, according to the best of my information and belief, set down in the above assessment roll all the real property liable to taxation situate in the municipality (or ward) of (as the case may be); and I have justly and truly assessed each of the parcels of real property so set down at its actual value.

2. I have estimated and set down, according to the best of my information and belief, in said assessment roll, the amounts assessable against every person named in the said roll for the purpose of the tax in respect of his trade, business, profession or calling, and in respect of his income.

3. I have entered therein the names of all the resident tenants and freeholders, and of all other persons of whose names I am aware or who have required their names to be entered therein, with the true amount of property occupied or owned by each; and I have not entered the name of any person whom I do not truly believe to be a tenant or freeholder, or the *bona fide* occupier or owner of the property, or in receipt of the income set down opposite his name, for his own use and benefit, or otherwise to be entitled by law to be so entered.

4. According to the best of my knowledge and belief, I have entered therein the name of every person entitled to be so entered, either under *The Assessment Act* or any other Act; and I have not intentionally omitted from said roll the name of any person whom I knew or had good reason to believe, to be entitled to be entered therein under any or either of the said Acts.

5. I have entered in the said roll the date of delivery or transmitting of the notice required by section 49 of *The Assessment Act*; and every such date is truly and correctly stated in the said roll.

6. I have not entered the name of any person at too low a rate in order to deprive such person of a vote, or at too high a rate in order to give such person a vote; and the amount for which each such person is assessed in the said roll truly and correctly appears in the said notice delivered or transmitted to him as aforesaid.

7. I have not entered any name in the above roll, or improperly placed any letter or letters in column 4, opposite any name, with intent to give to any person not entitled to vote, a right of voting; and I have not intentionally omitted from the said roll the name of any person whom I believe to be entitled to be placed therein, nor have I, in order to deprive any person of a right of voting, omitted from column 4 opposite the name of such person, any letter or letters which I ought to have placed there.

Sworn (or solemnly declared and affirmed) before me at _____, of _____ in _____ the county of _____, this _____ day of _____, A.D. 19____.

FORM OF OATH TO BE ATTACHED TO ASSESSMENT ROLL.

(Where assistant of an Assessment Commissioner enters date of delivery or transmission of notices under section 49.)

I (name of assistant and residence) make oath and say (or solemnly declare and affirm) as follows:—

I have entered in the assessment roll attached hereto, the date of delivery or transmission of the notice required by section 49 of *The Assessment Act*; and every such date has been truly stated in said roll.

4 Edw. VII. c. 23, *Sched. G.*

FORM 8.

(Section 69, subsection 15.)

FORM OF DECLARATION OF PERSON COMPLAINING IN PERSON OF OVERCHARGE ON TAXABLE INCOME.

I, A.B. (set out name in full, with place or residence, business, trade, profession or calling), do solemnly declare that my net income derived from all sources not exempted by law from taxation is

4 Edw. VII. c. 23, *Sched. I.*

FORM 9.

(Section 69, subsection 15)

FORM OF DECLARATION BY AGENT OF PERSON COMPLAINING OF OVERCHARGE ON TAXABLE INCOME.

I, A.B. (set out name in full, and place of residence, business, trade, profession or calling), agent for C.D. (set out name in full, with place of residence, and calling of person assessed), do solemnly declare that the net income of the said C.D., derived from all sources not exempt from taxation by law, is ; and that I have the means of knowing, and do know, the income of the said C.D.

4 Edw. VII. c. 23, *Sched. J.*

FORM 10.

(Section 116.)

FORM OF OATH TO BE ATTACHED TO COLLECTOR'S ROLL.

I (*name and residence*) make oath and say (*or solemnly declare and affirm*) as follows:—

I have appended my initials in the collector's roll attached hereto to every date entered by me in said roll as the date of demand of payment, or notice of taxes, pursuant to section 104 (*or* section 108) and of every transmission of statement and demand of taxes pursuant to section 106 of *The Assessment Act*; and every such date has been truly stated in said roll.

4 Edw. VII. c. 23, *Sched. H.*

FORM 11.

(Section 136 (2).)

CERTIFICATE OF TREASURER.

Treasurer's Office of the County (*or City or Town or Township*
of)

Statement showing arrears of taxes upon the following lands in
the Township, or City, or Town of

Lot.	Concession or Street.	Quantity of Land.	Amount.	Year.

I hereby certify that the above statement shows all arrears of taxes returned to this office against the above lands, and that no part of the said lands has been sold for taxes within the last eighteen months nor returned to the Clerk for collection within the last twelve months, under Sub-section 1 of Section 129 of *The Assessment Act*, and that the return under Section 116 of said Act has been made for the year 19 .

Treasurer.

4 Edw. VII. c. 23, *Sched. H.*

FORM 12.

(Section 173.)

TAX DEED.

To all to whom these Presents shall come:

We, _____, of the _____ of _____, Esquire, Warden
 (or Mayor, or Reeve), and _____ of the _____ of _____
 Esquire, Treasurer of the County (or City or Town or Township)
 of _____, Send Greeting:

WHEREAS by virtue of a warrant under the hand of the Warden
 (or Mayor or Reeve) and seal of the said County (or City or Town
 or Township) bearing date the _____ day of _____, in the year
 of our Lord one thousand nine hundred and _____, commanding
 the Treasurer of the said County (or City or Town or Township)
 to levy upon the land hereinafter mentioned, for the arrears of
 taxes due thereon, with his costs, the Treasurer of the said County
 (or City or Town or Township) did, on the _____ day of _____ 19____, sell
 by public auction to _____, of the _____ of _____, in the County of _____,
 that certain parcel or tract of land and premises hereinafter
 mentioned, at and for the price or sum of _____ of lawful money of
 Canada, on account of the arrears of taxes alleged to be due
 thereon up to the _____ day of _____, in the year of our Lord, one
 thousand nine hundred and _____, together with the costs:

Now know ye, that we, the said _____ and _____, as Warden
 (or Mayor or Reeve) and Treasurer of the said County (or City or
 Town or Township) in pursuance of such sale, and of *The Assess-
 ment Act*, and for the consideration aforesaid, do hereby grant,
 bargain and sell unto the said _____, his heirs and assigns, all that
 certain parcel or tract of land and premises containing
 being composed of (*describe the land so that the same may be
 readily identified.*)

In witness whereof, we the said Warden (or Mayor or Reeve) and
 Treasurer of the said County (or City or Town or Township) have
 hereunto set our hands and affixed the seal of the said county (or
 City or Town or Township), this _____ day of _____ in the year of
 our Lord one thousand nine hundred and _____; and the Clerk of
 the County (or City or Town or Township) Council has counter-
 signed.

A.B., Warden (or Mayor or Reeve). (*Corporate Seal.*)

C.D., Treasurer.

Countersigned,
 E.F., Clerk.

4 Edw. VII. c. 23, Sched. L.

CHAPTER 196

An Act Respecting Statute Labour.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Statute Labour Act*. Now, short title.

Exemptions.

2. The following persons shall not be liable to perform Certain persons in naval and military service, etc., exempt. statute labour or to commute therefor:—

(a) Every person in His Majesty's Naval or Military Service on full pay, or on actual service;

(b) Every non-commissioned officer or private of the Volunteer Force, certified by the officer commanding the company to which such volunteer belongs or is attached, as being an efficient volunteer; but this last exemption shall not apply to any volunteer who is assessed for property. 4 Edw. VII. c. 25, s. 2.

[*Firemen exempted in certain cases. See Rev. Stat. c. 201, s. 5 (2).*]

3. The owner or tenant of an island in the lakes not exceeding ten acres in extent and used with the houses erected thereon exclusively as a summer resort, and upon which the owner or his tenants do not reside more than three months in the year, and whereon no statute labour is done, shall not be rated for statute labour, nor shall the owner or tenant thereof be liable for the performance of statute labour or for the payment of commutation thereof for or in respect of such property. 4 Edw. VII. c. 25, s. 3. Islands used as summer resorts.

Cities, Towns and Villages.

4. Subject to the provisions of section 7, every other male Who is liable and what rate, in cities, towns and villages. inhabitant of a city, town or village of the age of twenty-one years and upwards, and under sixty years of age, and not otherwise exempted by law from performing statute labour, who has not been assessed upon the assessment roll of the city, town or village, shall, instead of such labour, be taxed at \$1 yearly therefor, to be levied and collected as the council

of the municipality may by by-law direct. 4 Edw. VII. c. 25, s. 4.

Townships.

Liability of persons not otherwise assessed in townships.

5. Subject to the provisions of section 7, every male inhabitant of a township, between the ages aforesaid, who is not otherwise assessed in any municipality in Ontario, and who is not exempt by law from performing statute labour, shall be liable to one day of statute labour on the roads and highways in the township. 4 Edw. VII. c. 25, s. 5.

Farmers' Sons.

Farmer's sons.

6. Every farmer's son entered as such on the assessment roll of any municipality shall, if not otherwise exempted by law, be liable to perform statute labour or commute therefor as if he were not so entered. 4 Edw. VII. c. 25, s. 6.

Reduction or Abolition of Tax.

Power to reduce or abolish statute labour.

7. The council of every city, town, village and township may pass by-laws to reduce or abolish the amount of statute labour to be performed or the amount to be paid in lieu thereof or to entirely abolish such statute labour and the performance thereof by all persons within the municipality. 4 Edw. VII. c. 25, s. 7.

Proof to relieve from tax.

8. Subject to the provisions of section 7, no person shall be exempted from the tax in sections 4 or 5 mentioned unless he produces a certificate that he is assessed elsewhere or that he has performed statute labour or paid the tax elsewhere in Ontario. 4 Edw. VII. c. 25, s. 8.

Performance of Statute Labour.

Ratio of service in case of persons assessed.

9.—(1) Except as hereinafter provided, every person assessed upon the assessment roll of a township shall, if his property is assessed at not more than \$300, be liable to two days' statute labour; at more than \$300 but not more than \$500, three days; at more than \$500 but not more than \$700, four days; at more than \$700 but not more than \$900, five days; and for every \$300 over \$900 or any fractional part thereof over \$150, one additional day; but the council of any township may, by a by-law operating generally and rateably, reduce or increase the number of days' labour to which all the persons, rated on the assessment roll or otherwise, shall be respectively liable so that the number of days' labour to which each person is liable shall be in proportion to the amount at which he is assessed; and in all cases both of residents and non-residents the statute labour shall be rated and charged against every separate lot or parcel according to its assessed value.

Council may reduce or increase the number of days proportionately.

(2) Wherever one person is assessed for lots or parts of several lots in one municipality, not exceeding in the aggregate two hundred acres, the said part or parts shall be rated and charged for statute labour as if the same were one lot, and the statute labour shall be rated and charged against any excess over 200 acres as if the excess were one lot. 4 Edw. VII. c. 25, s. 9 (1-2); 10 Edw. VII. c. 89, s. 1. Amount of
Statute labour.

(3) In townships where farm lots or portions thereof are owned by non-residents who have not required their names to be entered on the assessment roll, the statute labour shall be commuted by the township clerk in making out the roll required under section 101 of *The Assessment Act*, where such lots are under the value of \$200, to a rate not exceeding one-half per centum on the valuation; but the council may direct a less rate to be imposed by a general by-law affecting such lots. Commutation
of statute
labour of
non-residents.

Rev. Stat.
c. 195.

(4) Every resident shall have the right to perform his whole statute labour in the statute labour division in which his residence is situate, unless otherwise ordered by the municipal council. 4 Edw. VII. c. 25, s. 9 (3-4).

[As to the allowance of work in extinguishing bush fires as statute labour, see *The Fires Extinguishment Act*, Rev. Stat. c. 243, s. 3.]

Commutation of Statute Labour.

10. The council of any township may by by-law direct that a sum not exceeding \$1.50 a day shall be paid as commutation of statute labour for the whole or any part of such township, in which case the commutation tax shall be added in a separate column in the collector's roll and shall be collected and accounted for like other taxes. 4 Edw. VII. c. 25, s. 10; 3-4 Geo. V. c. 47, s. 1. Commutation
may be at \$1
per day.

11. Any local municipal council may, by by-law passed for that purpose, fix the rate at which persons may commute their statute labour at any sum not exceeding \$1.50 for each day's labour; and the sum so fixed shall apply equally to residents who are subject to statute labour and to non-residents in respect to their property. 4 Edw. VII. c. 25, s. 11; 3-4 Geo. V. c. 47, s. 2. Commutation
may be fixed
at any sum
not exceeding
\$1.

12. Where no such by-law has been passed the statute labour in townships, in respect of lands of residents and non-residents, shall be commuted at the rate of \$1 for each day's labour. 4 Edw. VII. c. 25, s. 12. If no by-law
commutation
to be at \$1.

13.—(1) Every person liable to pay the sum named in section 4 or any sum for statute labour commuted under section 10, shall pay the same to the collector appointed to collect the same within two days after demand therefor by the collector. Payment of
tax in lieu of
statute labour
may be en-
forced by
distress or
imprisonment.

collector; and in case of neglect or refusal to pay the same the collector may levy the same by distress and sale of the goods and chattels of the defaulter, with costs of distress: and if no sufficient distress can be found the defaulter, for his refusal or neglect to pay the said sum, shall incur a penalty of \$5.

Performance.

(2) Any person liable to perform statute labour under section 5 not commuted shall perform the same when required so to do by the pathmaster or other officer of the municipality appointed for that purpose, and, in case of wilful neglect or refusal to perform such labour after six days' notice requiring him to do the same, shall incur a penalty of \$5.

Penalty for neglect or refusal.

Penalties to be paid to treasurer of municipality.

(3) All sums and penalties, other than costs, recovered under this section shall be paid to the treasurer of the local municipality and shall form part of the Statute Labour Fund thereof. 4 Edw. VII. c. 25, s. 13.

Non-residents when not permitted to perform statute labour.

14. A non-resident whose name does not appear on the resident assessment roll shall not be permitted to perform statute labour in respect of any land owned by him; but a commutation tax shall be charged against every separate lot or parcel according to its assessed value and be entered in the non-residents collector's roll. In all cases in which taxes on such non-resident lands are paid the municipal council shall order the amount to be expended in the statute labour division in which the property is situate. 4 Edw. VII. c. 25, s. 14.

If resident owner, etc., makes default for statute labour to be entered upon collector's roll.

15.—(1) Where an owner or tenant makes default in performing his statute labour or in payment of commutation for the same, the overseer of highways in whose division he is placed shall return him as a defaulter to the clerk of the municipality before the 15th day of August, and the clerk shall in that case enter the commutation for statute labour against the land in the collector's roll of the current or following year, and the same shall be collected by the collector.

Overseer to expend the commutation money in the division.

(2) In every such case the clerk shall notify the overseer of highways who may be appointed for such division in the following year, or after it has been collected, of the amount of such commutation, and the overseer shall expend the amount of such commutation upon the roads in the statute labour division where the property is situate, and shall give an order upon the treasurer of the municipality to the person performing the work. 4 Edw. VII. c. 25, s. 15.

Statute Labour in Unincorporated Townships—Road Commissioners.

Meeting for election of road commissioners.

16. Twenty resident landholders in any township which has not been incorporated, either alone or in union with

some other township, shall have the right to have a public meeting called for the purpose of electing road commissioners. 4 Edw. VII. c. 25, s. 16.

17. The persons desiring the meeting to be called shall sign a requisition authorizing some person who shall be named in the requisition, and may either reside in the township or otherwise, to call a meeting of the resident landholders of the township for the purpose aforesaid. 4 Edw. VII. c. 25, s. 17. Requisition for meeting.

18. In case the person so named declines to call a meeting or neglects to do so for ten days after the requisition is presented to him, any three of the persons who signed the requisition may call the meeting. 4 Edw. VII. c. 25, s. 18. How meeting may be called in case person named in requisition fails to call it.

19. The notice calling the meeting shall name a place, day and hour for holding the meeting and shall be posted at six places at the least in the township, and the day named shall be at least six days distant from the day of posting the notice. 4 Edw. VII. c. 25, s. 19. Notice of meeting.

20. The election shall take place at the time named, and the number of the commissioners to be elected shall be either three or five, as may be stated in the requisition, unless the meeting, before proceeding to an election, decides that a number different from that stated in the requisition shall be elected, but such number shall not be less than three nor more than five. 4 Edw. VII. c. 25, s. 20. Number of commissioners.

21. In case the meeting is called by the person named in the requisition, he shall be entitled to preside at the meeting as chairman, but if he is absent, or declines to act, the landholders present may appoint another chairman; the chairman shall act as returning officer and shall, in the event of a tie, have a casting vote, although he may have previously voted, or may not be a landholder of the township; the landholders present shall also appoint a secretary who shall record the proceedings. 4 Edw. VII. c. 25, s. 21. Chairman of meeting.

22. The landholders present shall decide how the voting for commissioners shall be conducted; and if the vote is taken openly the commissioners shall be elected one at a time, but if it is decided to proceed by ballot all the commissioners shall be elected together, each person having the right to vote for as many persons as there are commissioners to be elected. 4 Edw. VII. c. 25, s. 22. Mode of voting.

23. The chairman shall, at the request of any two landholders present, direct the secretary to record the names of all persons voting and, unless the vote is by ballot, how each votes. 4 Edw. VII. c. 25, s. 23. Record of persons voting.

Objections to voters.

24. If an objection is made to the right of any person to vote at the meeting, such person shall name the property in respect of which he claims the right to vote, and the chairman shall administer to such person an oath, or affirmation if he be by law permitted to affirm, according to the following form, whereupon such person shall be permitted to vote.

You swear (or, *if the voter is entitled to affirm*, solemnly affirm) that you are of the age of twenty-one years, and that you are the owner or locatee of lot _____ in the concession of this township, and that you are entitled to vote at this election.

So help you God.

4 Edw. VII. c. 25, s. 24.

Terms of office.

25. The commissioners elected shall hold office until the 31st day of December next after their election, and shall take, before a Justice of the Peace, a declaration of office similar to that of a councillor in a municipal corporation. 4 Edw. VII. c. 25, s. 25.

First meeting of road commissioners.

26. The commissioners shall meet within a fortnight after their election, and shall then or as soon thereafter as may be, name the roads and parts of roads upon which statute labour is to be performed, and shall appoint the places and times at which the persons required to perform statute labour are to work. 4 Edw. VII. c. 25, s. 26.

Powers of road commissioners as to opening roads.

27.—(1) The commissioners shall have power to open road allowances when the same have been laid down in the original surveys, and where such road allowances are either wholly or partly impracticable to lay out roads in lieu thereof; and where no road allowances are laid down in the original surveys, but five per cent. of the area is reserved for roads, the commissioners may lay out roads where necessary and direct the performance of statute labour accordingly. 61 V. c. 26, s. 1.

Filing plan of roads in Crown Lands Department.

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as above provided, the commissioners shall cause a plan thereof, so far as the same affects ungranted lands of the Crown, to be made by an Ontario Land Surveyor and shall file the same in the Department of Lands, Forests and Mines. 61 V. c. 26, s. 3.

Time for performance of statute labour.

28. The times to be appointed for the performance of statute labour shall, unless the meeting of the landholders to elect commissioners otherwise directs, be not earlier than the 20th day of June, nor later than the 20th day of July in any year. 4 Edw. VII. c. 25, s. 27.

Ratio for service by owners and location of land.

29.—(1) Each owner or locatee of land may be required each year to perform two days' labour for every one hundred

acres he holds, and for the first ten acres which he has cleared after the first ten, he may be required to perform one day's additional labour, and for every twenty acres over and above the first ten, one additional day's labour, and each householder may be required each year to perform one day's labour.

(2) Any land owner, owning less than one hundred acres, may be required to perform statute labour as the commissioners may direct, but not exceeding the scale provided for in subsection 1 of this section where the land is in part cleared and not exceeding two days where no part of the land is cleared. 4 Edw. VII. c. 25, s. 28. Liability of land owners to perform statute labour.

30.—(1) Each Commissioner shall, during the time he is required to perform statute labour, act as overseer, and the commissioners shall arrange among themselves for overseeing the various bodies of men engaged in doing statute labour. Commissioners to oversee work.

(2) A commissioner may be paid out of the commutation fund for not exceeding two days' labour at the rate of \$1.25 per day if performed by him over and above the number of days' labour he may by law be required to perform in respect of his own property. Payment of commissioners.

(3) The commissioners shall have the same powers as municipal corporations have in reference to statute labour to appoint overseers and require returns to be made to them of the statute labour performed in their districts. 4 Edw. VII. c. 25, s. 29. General powers.

31. Any person instead of performing the statute labour required of him may commute therefor by payment at the rate of \$1.50 per day, and the commissioners shall expend all commutation money upon the roads on which the labour which is commuted for should have been performed. 4 Edw. VII. c. 25, s. 30; 3-4 Geo. V. c. 47, s. 3. Commutation.

32. The majority of the commissioners may call a meeting to be held at any time during the month of January for the election of their successors, but in case of their failure so to do a meeting may be called in the manner hereinbefore provided for a first election. 4 Edw. VII. c. 25, s. 31. Meeting for election of new commissioners.

33. Any person liable to perform statute labour under the provisions of sections 16 to 35 who, after six days' notice requiring him to do the same, wilfully neglects or refuses to perform, at the time and place named by the commissioners, the number of days' labour for which he is liable, shall incur a penalty of \$5, and in addition \$1.50 for each day in respect of which he makes default, the same to be paid to the commissioners and to be expended in improving Penalty for neglect to perform work.

the said roads. 4 Edw. VII. c. 25, s. 32; 3-4 Geo. V. c. 47, s. 4.

Book to be kept.

34.—(1) The Commissioners shall cause a book to be kept in which there shall be entered the name of every person liable for the performance of statute labour or payment of the commutation and the lot or parcel of land in respect of which he is so liable.

Entry of payment or performance.

(2) Upon the performance of statute labour or payment of the commutation entry shall be made thereof in the book in a column provided for that purpose.

Entry of default.

(3) Where any person after six days' notice in writing from the Commissioners does not perform his statute labour the Commissioners shall cause an entry thereof to be made and in the proper column shall enter the amount of such commutation against the name of the person in default.

Form of roll.

(4) The book shall be kept as nearly as may be in the form of a collector's roll for an organized township.

Return of arrears to Sheriff.

(5) On the first day of June in the year following that in which default was made the Commissioners shall make a return to the Sheriff of the District showing each lot or parcel of land upon which the commutation has not been paid, the name of the owner or locatee, the amount chargeable at the date of the return and the year for which the amount in arrear was imposed.

Sheriff to keep account of arrears.

(6) The Sheriff shall enter the particulars so furnished in a book to be kept by him for that purpose.

Payment of arrears not to be made to commissioners after two years.

(7) The Commissioners shall not receive any payments on account of such arrears after the expiration of two years from the date when the same became due and chargeable, but in the case of payments made within that period the Commissioners shall forthwith notify the Sheriff thereof and the Sheriff shall enter such payment against the proper lot or parcel in the book kept by him for that purpose.

After two years all arrears to be paid to Sheriff.

(8) After the expiration of the said period of two years all arrears shall be payable to the Sheriff and the Sheriff shall enter every payment in the book kept by him and shall return the amount paid to the Commissioners.

Arrears to bear interest.

(9) All arrears chargeable under this section shall bear interest at the rate of ten per cent. per annum.

Sale of land by Sheriff for arrears.

(10) Whenever it appears from the entries in the book kept by the Sheriff that any amount chargeable for statute labour is in arrear for three years from the 31st day of December in the year in which the same became payable, the Sheriff shall proceed to collect the same with interest at the rate aforesaid by the sale of the lands in respect of which such arrears are chargeable and the procedure in relation

to such sale and the provisions applicable to deeds, the redemption of lands thereafter and deeds to be given to tax purchasers shall be the same as nearly as possible as in the case of the sale of lands by the Sheriff for arrears of taxes in organized municipalities in the Provisional Judicial Districts of Muskoka and Parry Sound. 9 Edw. VII. c. 77, s. 1.

35. The Commissioners, when duly elected shall serve during the term for which they are elected or shall forfeit the sum of \$5, which may be sued for, together with costs, in any Court having jurisdiction by any three electors making the complaint. 4 Edw. VII. c. 25, s. 33.

Penalty for
refusal to
serve as com-
missioners

RECOVERY OF PENALTIES.

36. The penalties imposed by this Act shall be recoverable under *The Ontario Summary Convictions Act*.

Penalties.
Rev. Stat. c. 30.

2. MISCELLANEOUS MUNICIPAL MATTERS.

CHAPTER 197.

An Act respecting the Granting of Franchises by Municipal Councils.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as *The Municipal Franchises Act*.
2 Geo. V. c. 42, s. 1.

Interpretation.

2. In this Act,

"Franchises,"

(a) "Franchises" shall include any right or privilege to which this Act applies;

"Highway,"

(b) "Highway" shall include a street and a lane;

"Public utility,"

(c) "Public Utility" shall include waterworks, natural and other gas works, electric light, heat or power works, steam heating works, and distributing works of every kind. 2 Geo. V. c. 42, s. 2.

Franchise not to be granted without assent of electors.

3.—(1) The Council of a municipality shall not grant to any individual, firm or company, nor shall any individual, firm or company acquire the right to use or occupy any of the highways of the municipality or to construct or operate any railway, street railway, or public utility in the municipality, or to supply to the corporation, or to the inhabitants of the municipality, or to any of them, gas, including natural gas, electric light, heat or power or steam unless or until a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted has been assented to by the municipal electors, as provided by *The Municipal Act*, with respect to by-laws requiring the assent of the electors.

Rev. Stat. c. 192.

In police villages.

(2) Where the trustees of a police village request the council of the township in which the village is situate to grant any such right with respect to the village, or where the board of trustees of a police village desire to grant such a right it shall be a sufficient compliance with subsection 1

if the by-law receives the assent of the municipal electors of the village.

(3) This section shall apply to the renewal or extension of an existing franchise. 2 Geo. V. c. 42, s. 3. Renewals and extensions.

4.—(1) Where a by-law granting a franchise or right in respect of any of the works or services mentioned in subsection 1 of section 3, which has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 1 or subsection 2 of section 3, and such consent shall be necessary notwithstanding that such last mentioned by-law is expressly limited in its operation to a period not exceeding one year. Extension of certain existing works not to be made without by-law.

(2) Subsection 1 shall not apply to any franchise or right granted by or under the authority of any general or special Act of this Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. 2 Geo. V. c. 42, s. 4. Exceptions as to franchises granted before 16th March, 1909.

5. Except where otherwise expressly provided this Act shall not apply to a by-law Exceptions.

(a) Granting the right of passing through the municipality for the purpose of continuing a line, work or system which is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipality for any other purpose except that of supplying natural gas or electric light or power in a township to persons whose land abuts on a highway along or across which the same is carried or conveyed; Works originating in another municipality.

(b) Conferring the right to construct, use and operate works required for the transmission of oil, natural gas or water not intended for sale or use in the municipality; Oil, natural gas and waterworks.

(c) Which is expressly limited in its operation to a period not exceeding one year and is approved by the Ontario Railway and Municipal Board; Limited to one year.

(d) Of a county or township which is approved by the Lieutenant-Governor in Council. 2 Geo. V. c. 42, s. 5. Counties and townships.

Extensions
of one-year
franchise
from year
to year
prohibited.

6. Where a by-law to which clause (c) of section 5 applies is hereafter passed that clause shall not apply to any subsequent by-law in respect to the same works or any part of them or to an extension of or addition to them, although such subsequent by-law is expressly limited in its operation to a period not exceeding one year, and no such subsequent by-law shall have any force or effect unless it is assented to by the municipal electors as provided by subsection 1 of section 3. 2 Geo. V. c. 42, s. 6.

CHAPTER 198.

An Act respecting Municipal Drainage.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Municipal Drainage Act*, Short title. 10 Edw. VII. c. 90, s. 1.

INTERPRETATION.

2. In this Act,

Interpreta-
tion.

- (a) "Construction" shall mean, the original opening making, excavating or completing of drainage work; "Construc-
tion."
- (b) "County" shall include a provisional judicial district; "County."
- (c) "County Court" shall include district court; "County
Court."
- (d) "Court of Revision" shall mean a court of revision constituted under the provisions of this Act, for the trial of complaints respecting assessments for drainage work; "Court of
Revision."
- (e) "Initiating Municipality" shall mean the municipality undertaking the construction of any drainage work to which this Act applies; "Initiating
Municipality."
- (f) "Judge" shall mean the senior, junior, or acting Judge of the County or District Court of the county or district in which the municipality assessing lands or roads for a drainage work is situate, but shall not include a Deputy Judge; "County
Judge."
- (g) "Maintenance" shall mean the preservation and keeping in repair of a drainage work; "Mainten-
ance."
- (h) "Municipality" shall not include a county municipality; "Municipality."
- (i) "Owner" or "actual owner" shall include the executor or administrator of an owner's estate, the guardian of an infant owner, any person entitled to sell and convey the land, an agent of an owner under a general power of attorney, or under a "Owner,"
"actual
owner."

power of attorney empowering him to deal with lands, and a municipal corporation as regards highways under their jurisdiction;

"Referee."

(j) "Referee" shall mean the Referee for the purpose of the drainage laws of Ontario as hereinafter provided;

"Reference."

(k) "Reference" shall mean a reference or transfer to the said Referee under the provisions of this Act;

"Relief."

(l) "Relief" shall mean relieving from liability for causing water to flow upon and injure lands or roads;

"Sufficient outlet."

(m) "Sufficient outlet" shall mean the safe discharge of water at a point where it will do no injury to lands or roads. 10 Edw. VII. c. 90, s. 2.

CONSTRUCTION OF DRAINAGE WORK.

What work may be undertaken on petition.

3.—(1) Upon the petition of the majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, as shown by the last revised assessment roll to be the owners of the lands to be benefited in any area as described in such petition within any township, village, town, or city, to the municipal council thereof, for the drainage of the area as described in the petition by means of drainage work, that is to say, the construction of a drain or drains, the deepening, straightening, widening, clearing of obstructions, or otherwise improving of any stream, creek or watercourse, the lowering of the waters of any lake or pond, or by any or all of such means as may be set forth in the petition, the council may procure an engineer or Ontario land surveyor to make an examination of the area to be drained, the stream, creek, or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved or the lake or pond, the waters of which are to be lowered, according to the prayer of the petition, and to prepare a report, plans, specifications and estimates of the drainage work, and to make an assessment of the lands and roads within said area to be benefited and of any other lands and roads liable to be assessed as hereinafter provided, stating as nearly as may be, in his opinion, the proportion of the cost of the work to be paid by every road and lot or portion of lot for benefit, and for outlet liability and relief from injuring liability as hereinafter defined.

Council to order examination and report by engineer.

When work requires pumping, embanking, etc.

(2) The provisions of this Act shall apply and extend to every case where the drainage work can only be effectually executed by embanking, pumping or other mechanical operation, but in every such case the municipal council shall not proceed except upon the petition of at least two-thirds of the owners of lands within the area described according to the preceding subsection.

(3) If from the lands or roads of any municipality, company or individual, water is by any means caused to flow upon and injure the lands or roads of any other municipality, company or individual, the lands and roads from which the water is so caused to flow may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work required for relieving the injured lands or roads from such water, and to the extent of the cost of the work necessary for their relief as may be determined by the engineer or surveyor, court of revision, county judge, or referee; and such assessment may be termed "injuring liability."

(a) The owners of the lands or roads thus made liable for assessment shall neither count for nor against the petition required by subsection 1 of this section unless within the area therein described.

(4) The lands and roads of any municipality, company or individual using any drainage work as an outlet, or for which when the work is constructed an improved outlet is thereby provided, either directly or through the medium of any other drainage work or of a swale, ravine, creek or watercourse, may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work so used as an outlet or an improved outlet, and to the extent of the cost of the work necessary for any such outlet, as may be determined by the engineer or surveyor, court of revision, county judge or referee; and such assessment may be termed "outlet liability."

(a) The owners of the lands and roads thus made liable to assessment shall neither count for nor against the petition required by subsection 1 of this section, unless within the area therein described.

(5) The assessment for injuring liability and outlet liability provided for in the two next preceding subsections shall be based upon the volume, and shall also have regard to the speed, of the water artificially caused to flow upon the injured lands or into the drainage work from the lands and roads liable for such assessments.

(6) Any lands or roads from which the flow of surface water is by any drainage work cut off, may be assessed and charged for same by the engineer or surveyor of the municipality doing the work; and such assessment shall be classified and scheduled as benefit. 10 Edw. VII. c. 90, s. 3.

PETITION FOR CONSTRUCTION.

4. The petition shall be according to Form 1 or to the like effect. 10 Edw. VII. c. 90, s. 4.

DUTIES OF ENGINEER OR SURVEYOR.

Oath of
engineer or
surveyor.

5.—(1) Any engineer or surveyor employed or appointed by any municipal council to perform any work under the provisions of this Act, including the assessment of real property for the purpose of drainage work, shall before entering upon his duty, take and subscribe the following oath, and shall leave the same with, or send it by registered letter post to the clerk of the municipality:

In the matter of the proposed drainage work (*or as the case may be*) in the township of (*name*).

I (*name in full*) of the town of _____ in the county of _____, Engineer (*or* Surveyor) make oath and say, (*or do solemnly declare and affirm*):

That I will, to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against any owner or owners, or other person or persons whomsoever, perform the duty assigned to me in connection with the above work and will make a true report thereon.

Sworn before me at the _____ of _____
in the county of _____, this _____
day of _____, A.D. 19 _____

A Commissioner, etc. (*or* Township Clerk, *or* J. P.)

Proceedings
not invalidated
by failure to
take oath.

(2) The failure of the engineer or surveyor to take the oath shall not invalidate any proceedings taken under the provisions of this Act. 10 Edw. VII. c. 90, s. 5.

Assessment
of whole
lot or
sub-division.

6.—(1) The engineer or surveyor, in assessing the lands to be benefited or otherwise liable for assessment under this Act, need not confine his assessment to the part of the lot actually affected, but may place such assessment on the quarter, half or whole lot containing the part affected as the case may be, if the owner of such part is also the owner of such lot or other subdivision.

Apportion-
ment of
assessment
for drainage
work on
sub-division
of land
assessed.

(2) Where part of a whole lot or of a subdivision or portion of a lot assessed by the engineer has been sold since the final revision of the assessment, the owner of the part so sold or the owner of the remaining portion of the lot or subdivision or portion of a lot so assessed, may give notice to the clerk of the municipality that he requires such assessment to be apportioned between the owners of the property so assessed and subdivided, and the township engineer shall thereupon make such apportionment in writing and the same shall be filed with the clerk and shall be by him attached to the original assessment, and shall be binding on the lands assessed in the manner apportioned by the engineer, and the rate shall thereafter be levied and collected accordingly.

(3) The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by such engineer. 10 Edw. VII. c. 90, s. 6.

Assessment
may be
shown in
money.

7. The assessment upon any lands or roads for any drainage work may be shown by the engineer or surveyor placing sums of money opposite the lands or roads, and it shall not be

necessary to insert the fractional part of the whole cost to be borne by the lands or roads. 10 Edw. VII. c. 90, s. 7.

8. The engineer or surveyor, when required by the council, shall make plans, specifications and detailed estimates of the drainage work to be constructed and charge the same to the work as part of its cost. 10 Edw. VII. c. 90, s. 8. Plans, specifications and estimates.

9.—(1) The engineer or surveyor shall in his report and estimates provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by such work crossing any public highway or the travelled portion thereof; and he shall in his assessment apportion the cost of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway as to him may seem just. bridges and culverts on highways

(2) The engineer or surveyor shall also in his report and estimates provide for the construction or enlargement of bridges required to afford access from the lands of owners to the travelled portion of any public highway, and he shall include the cost of the construction or enlargement of such bridges in his assessment for the construction of the drainage work, and they shall, for the purposes of construction and maintenance, be deemed part of the drainage work, and the maintenance thereof may include any enlargement from time to time rendered necessary by the drainage work. bridges on public highways and on the lands of the owners

(3) The engineer or surveyor shall in the same manner provide for the construction or enlargement of bridges rendered necessary by the drainage work upon the lands of any owner, and shall fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto, but the land assessed for the drainage work shall not nor shall any municipal corporation be liable for keeping such bridges in repair. Farm bridges

(4) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any private ditch or drain, or of any ditch constructed under any Act respecting ditches or watercourses which may be incorporated in whole or in part into such drainage work or used therewith. Allowing for private ditches, etc.

(5) The engineer or surveyor shall further in his report determine in what manner the material taken from any drainage work, either in the construction or repair thereof, shall be disposed of, and the amount to be paid to the respective persons entitled for damages to lands and crops, if any, occasioned thereby, and shall include such sums in his estimates of the cost of the drainage work or the repairs. Disposal of material taken from drainage work.

Assessment
of compensa-
tion for
damage to
low lands
instead of
constructing
drain to
an outlet.

(6) Where, in the opinion of the engineer or surveyor, the cost of continuing the drainage work to a point where the discharge of water will do no injury to lands and roads, or the cost of constructing the drainage work with sufficient capacity to carry off the water, will exceed the amount of injury likely to be caused to low lying lands along the course of, or below the termination of the work, instead of continuing the work to such a point, or constructing it of such capacity, he may include in his estimate of the cost of the drainage work a sufficient sum to compensate the owners of such low lying lands for any injuries they may sustain from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low lying lands in respect of such injuries.

Appeal to
referee.

(7) Any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of this section, may appeal therefrom to the Referee, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within ten days after the adoption of the engineer's report by the council, and the Referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit their witnesses or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the Referee; and the Referee, on an appeal under this subsection, may make such order as to him seems just, and his decision shall be final.

Notice to
persons
assessed.

(8) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter or postal card, notify the parties assessed of such assessment and the amount thereof. In case more than one municipality is interested in the proposed work, the clerk of such other municipalities or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof, and he shall also in like manner notify each of the owners of lands in respect of which the report provides for compensation of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered.

Time for
filing report
of engineer.

(9) The report of the engineer shall be filed within six months after the filing of the petition, or within such further time as the council may in their discretion from time to time appoint, and the council may adopt the report of the engineer if they see fit notwithstanding that such report is made after the six months herein fixed for making the same or after any extended period fixed by the council under this subsection.

If engineer
neglects to do
work council
may appoint
another.

(10) In case the engineer neglects to make his report within the time limited by the preceding subsection, or within the time fixed by the council under that subsection, he shall

forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer to make the examination, report and assessment required by the preceding section.

(11) A by-law passed by the council of any municipality for the construction of any drainage work under this Act, upon the report of the engineer, shall not be quashed or declared void or illegal by reason only that the report of the engineer has not been filed within six months after the filing of the petition provided for in this Act, or within the extended period provided for in subsection 9. By-law not to be invalid by reason of engineer's report not being filed within six months. 10 Edw. VII. c. 90, s. 9.

10.—(1) The engineer and his assistants when engaged in the performance of their duties during or after the examination of the locality, may pass over, measure along, ascertain the bearings of any line, plant the stakes which he deems necessary for the performance of the work and take levels on the land of any person. Power to plant stakes etc.

(2) Any person who interferes with or obstructs the engineer in the the exercise of the powers conferred by subsection 1, shall incur a penalty not exceeding \$100. recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 48, s. 1. Penalty for obstructing engineer. Rev. Stat. c. 90.

11. When a drainage work is to be constructed on or along a road allowance the engineer or surveyor shall, upon the application of the municipal council controlling such road allowance, place in his estimate of the cost of the work a sum sufficient to close-chop, or grub and clear not less than twelve feet of the middle of the road allowance, if required, and to spread thereon the earth to be taken from the work, and shall charge the cost thereof to the municipality, together with its proportion of the cost of the drainage work. Spreading earth and removing timber on road allowances 10 Edw. VII. c. 90, s. 10.

COVERING DRAINAGE WORK.

12. Where the engineer or surveyor reports in favour of covering the whole or any part of a drainage work constructed under this Act, he shall determine and state in his report the size and capacity thereof and also the material to be used in its construction, and all the provisions of this Act shall apply thereto in the same manner and to the same extent as to an uncovered or open drainage work, but in no case shall the improvement of a creek, stream or natural watercourse be made into a covered drainage work unless it provides capacity for all the surface water from lands and roads draining naturally towards and into it, as well as for all the waters from all the lands assessed for the drainage work. Report on covering drains. 10 Edw. VII. c. 90, s. 11.

DISTINGUISHING ASSESSMENTS.

Engineer to distinguish assessments.

13.—(1) The engineer or surveyor shall, in his report, assess for benefit, outlet liability and injuring liability, and shall also in his assessment schedule insert the sum charged for each opposite the land and roads liable therefor respectively and in separate columns. 10 Edw. VII. c. 90, s. 12.

Prior assessments to be taken into consideration.

(2) In fixing the sum to be assessed upon any lands or roads the engineer or surveyor may take into consideration any prior assessment on the same lands or roads for drainage work and repairs and make such allowance or deduction therefor as may seem just, and he shall, in his report, state the allowance made by him in respect thereof. 10 Edw. VII. c. 90, s. 13.

Engineer to report as to whether or not other municipalities are interested and how.

14. The engineer or surveyor shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and maintained solely at the expense of such municipality and the lands assessed therein, or at the expense of all the municipalities interested, and the lands therein assessed, and in what proportions. 10 Edw. VII. c. 90, s. 14.

FILING REPORT.

Engineer to file report.

15. As soon as the engineer or surveyor has completed his report, plans, specifications, assessments and estimates, he shall file the same with the clerk of the municipality by which he was employed. 10 Edw. VII. c. 90, s. 15.

Engineer or Surveyor to give detailed accounts of service, under oath.

16.—(1) Any engineer or surveyor employed or appointed to perform any work under the provisions of this Act shall, if required so to do by the council by which he was engaged, send in his accounts to such municipalities for his services, under oath, giving detailed information as to the number of days occupied in superintending the drainage work, the number of days engaged in laying out the work, and the number of days engaged in the office making plans and preparing his report, also the number of days on which he was engaged in making assessments and inspecting the work, showing the number of hours occupied in each day; and the account shall also set out whether the work was performed on the works or in the office, and whether the time so occupied was the time of the engineer himself, or that of a clerk or assistant.

Audit of account.

(2) The account upon the written request of the municipal council or of any person assessed, to be filed with the clerk of the municipality, shall be audited by the judge free of charge.

Appointment to proceed.

(3) The clerk shall deliver the account to the judge, who shall appoint a time and place at which he will proceed with the audit.

(4) The clerk shall give at least two days' notice of such ^{notice} audit to the engineer or surveyor and the head of the municipality, as well as to any person requiring the audit.

(5) At the time and place named in such appointment the ^{procedure on} judge shall audit the account, and may disallow any charges which he may deem unreasonable, and shall certify thereon the amount to which, in his opinion, the engineer or surveyor is entitled, and the amount disallowed shall not be recoverable by the engineer or surveyor. 10 Edw. VII. c. 90, s. 16.

NOTICE TO PERSONS ASSESSED.

17. The clerk of the municipality shall notify all parties ^{clerk to} assessed within the area described in the petition, by mailing ^{notify} to the owner of every parcel of land assessed therein for the ^{parties} drainage work, a circular or postal card upon which shall be ^{assessed} stated the date of filing the report, the name or other general designation of the drainage work, its estimated cost, the owner's land and its assessment, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be read and considered, which shall be not less than ten days after the mailing of the last of such circulars or postal cards, and the determination of the council as to the sufficiency of notice or otherwise shall be final and conclusive. 10 Edw. VII. c. 90, s. 17.

CONSIDERATION OF REPORT.

18. The municipal council shall at the meeting mentioned in such notice, immediately after dealing with the minutes of ^{proceedings} its previous meeting, cause the report to be read by the clerk ^{at meeting} to all the ratepayers in attendance, and shall give an opportunity to any person who has signed the petition to withdraw ^{for consideration} from it by putting his withdrawal in writing, signing the same and filing it with the clerk, and shall also give those present who have not signed the petition an opportunity so to do; and should any of the roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature shall count as that of one ^{received report} person benefited in favour of the petition. 10 Edw. VII. c. 90, s. 18.

19. The council at any time before the final passing of the by-law, if it appears that there are or may be errors in the report or assessment of the engineer or that for any other ^{Referring} reason the report or assessment should be reconsidered, may ^{report back} refer the report back to him for re-consideration, and the ^{to engineer} engineer may thereupon re-consider his report and assessment and shall report to the council, and the report shall have the same effect and shall be dealt with in the same ^{for reconsideration} manner and the proceedings thereon shall be the same as upon

the original report or assessment, and it shall not be necessary that the engineer shall make any further oath or declaration. 10 Edw. VII. c. 90, s. 19.

EFFECT OF WITHDRAWAL FROM PETITION.

Withdraw-
ing from
petition.

20. Should the petition at the close of such meeting of the council contain the names of the majority of the persons shown as aforesaid to be owners benefited within the area described in such petition, the council may proceed to adopt the report and pass a by-law authorizing the work, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw; but if after striking out the names of the persons withdrawing, the names remaining, including the names, if any, added as provided by section 18, do not represent a sufficient number of owners within the area described to comply with the provisions of section 3, then the persons who have withdrawn from the petition shall on their respective assessments in the report, with one hundred per centum added thereto, together with the other original petitioners on their respective assessments in the report, be, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by the municipality in connection with such petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for such municipality against the lands of the person liable, and shall be collected in the same manner as taxes placed on the roll for collection. 10 Edw. VII. c. 90, s. 20.

Certain by-
laws con-
firmed.

21. A by-law heretofore or hereafter passed shall not be deemed invalid or illegal by reason only that the petition therefor was not sufficiently signed if such petition was duly signed by a majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, shown by the last revised assessment roll to be the owners of the lands to be benefited in the area described in such petition. 10 Edw. VII. c. 90, s. 21.

BY-LAWS.

What by-laws
may be
passed by
council.

22. Should the council of the municipality in which the lands and roads described in the petition lie be of the opinion that the drainage work proposed in the petition, or a portion thereof, would be desirable, the council may pass a by-law or by-laws:—

Doing Work and Borrowing Money.

Providing
for work.

1. For providing for the construction of the proposed drainage work or a portion thereof, as the case may be.

Borrowing
funds.

2. For borrowing on the credit of the municipality the funds necessary for the work, or the portion to be contributed by the initiating municipality when the same is to be con-

structed at the expense of two or more municipalities, and for issuing the debentures of the municipality to the requisite amount, including the costs of appeal, if any, in sums of not less than \$50 each, and payable within twenty years from date, except in case of pumping and embanking drainage work, the debentures for which shall be payable within thirty years from their date, with interest at a rate of not less than four per centum per annum.

Assessing Lands and Roads.

3. For assessing and levying, in the same manner as taxes are levied, upon the lands and roads, including roads held by joint stock companies, railway companies, private individuals, counties or county councils, to be benefited by the work and otherwise liable for assessment under this Act in the municipality passing the by-law, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing, levying and collecting the same as other taxes are assessed, levied and collected, in proportion as nearly as may be, to their respective liability to contribute.

Assessing
lands and
roads.

4. For regulating the times and manner in which the assessments shall be paid.

Fixing time
for paying
assessment.

Determining Assessment Liability.

5. For determining what lands and roads will be benefited by or otherwise rendered liable for assessment for the drainage work, and the proportion in which the assessment should be made, subject in every case of complaint by the owner or any person interested in any lands or roads to appeal as hereinafter provided. 10 Edw. VII. c. 90, s. 22.

Determining
property to
be benefited

FORM OF BY-LAW.

23. The by-law shall, varying with the circumstances, be according to Form 2 or to the like effect. 10 Edw. VII. c. 90, s. 23.

Form of
by law.

PUBLICATION OF BY-LAW.

24.—(1) Before the final passing of the by-law, it shall be published once in every week for four consecutive weeks in a newspaper published in the municipality or in the county town, or in an adjoining or neighbouring municipality, and designated by resolution of the council, with a notice of the time and place of holding the court of revision, and also a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the reeve or other head officer and the clerk of the municipality, of his intention to make application for that purpose to the Referee during the six weeks next after the final passing of the by-law.

Publication
of by law
and notice
of sitting
of Court
of Revision.

Newspapers
to be sent to
each person.
assessed.

(2) The clerk shall furnish the publisher of the newspaper with the names and post office addresses of all persons within the municipality whose lands are assessed for the drainage work, and the publisher shall mail or cause to be mailed to each owner, to such post office address, the first two issues of the newspaper containing the by-law, and the publisher or person mailing such newspapers shall make a statutory declaration of such mailing and file the same with the clerk of the municipality publishing the by-law. 10 Edw. VII. c. 90, s. 24.

Service in
lieu of
publication.

25. The council may, at its option, instead of publishing in a newspaper, by resolution, direct that a copy of the by-law, including the notice of the sitting of the court of revision, and notice as to proceedings to quash, written or printed, or partly written and partly printed, be served upon each of the assessed owners, or their lessees or the occupant of their lands, or the agent of such owner, or be left on the lands, if occupied, with some grown-up person; and if the lands are unoccupied and the owner or his agent does not reside within the municipality, the council may cause a copy of the by-law and notices to be sent by registered letter to the last known address of such owner; and a statutory declaration shall be made by the person effecting any service or mailing any such registered letter, showing the manner and date of effecting the service or mailing the registered letter; and such declaration shall be filed by the person making the same, with the clerk of the municipality passing the by-law. 10 Edw. VII. c. 90, s. 25.

If by-law
or part
thereof not
quashed
within time
limited.

26. In case no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the notice attached to the by-law, or where the notice is served, then if the application is not made or is unsuccessful in whole or in part, the by-law, or so much thereof as is not quashed, so far as the same ordains, prescribes or directs anything within the proper competence of the council to ordain, prescribe or direct, shall, notwithstanding any want of form or substance either in the by-law itself or in the time or manner of passing the same, be a valid by-law. 10 Edw. VII. c. 90, s. 26.

COURT OF REVISION.

Constitution and Powers.

Where council
has not more
than five
members.

27. If the council of the municipality consists of not more than five members, such five members shall be a court for the revision of the assessments for the drainage work. 10 Edw. VII. c. 90, s. 27.

Where council
has more
than five
members.

28. If the council consists of more than five members, it shall appoint five of its members to constitute the court of revision. 10 Edw. VII. c. 90, s. 26.

29. Every member of the court of revision shall, before ^{Oath of} entering upon his duties, take and subscribe before the clerk ^{member} of the municipality the following oath, or affirmation in cases where by law affirmation is allowed:

I, _____, do solemnly swear (or affirm), that I will to the best of my judgment and ability, and without fear, favor or partiality, honestly decide the appeals to the Court of Revision from the assessments appearing in a by-law (*here set out title of by-law*), which may be brought before me for trial as a member of such Court.

10 Edw. VII. c. 90, s. 29.

30.—(1) Three members of the court of revision shall constitute a quorum, and the majority of a quorum may decide all questions before the court. ^{Quorum.}

(2) No member of the court shall act as a member thereof while any appeal is being heard respecting any lands in which he is directly or indirectly interested, save and except roads and lands under the jurisdiction of the municipal council. ^{Members not to sit on appeals where interested}

10 Edw. VII. c. 90, s. 30.

31.—(1) The clerk of the municipality shall be the clerk of the court, and shall record the proceedings thereof and shall issue summonses to witnesses to attend any sittings of the court. ^{Clerk of court.}

(2) The summons to any witness issued by the clerk under this section may be in the following form:— ^{Form of summons.}

You are hereby required to attend and give evidence before the Court of Revision at _____ on the _____ day of _____ 19____, in the matter of the drainage work (*naming or describing work*) and of the following appeal.

Appellant (*name of*).

A. B.

Clerk of the Township of _____

(3) The fees payable to any witness on an appeal to the court of revision shall be according to the scale of witness fees in the division court. ^{Witness fees} 10 Edw. VII. c. 90, s. 31.

32. At the time appointed, the court shall meet and try all complaints in regard to owners wrongly assessed or omitted from assessment or assessed at too high or too low an amount, and the court may adjourn from time to time as required. ^{Meeting and adjournments} 10 Edw VII. c. 90, s. 32.

33. The evidence of witnesses shall be taken on oath and any member of the court may administer an oath to any party or witness. ^{Evidence.} 10 Edw. VII. c. 90, s. 33.

34. If any person summoned to attend the court of revision as a witness fails, without good and sufficient reason, to attend, having been tendered the proper witness fees, he shall incur a penalty of \$20 to be recovered with costs, by and to the use of any person suing for the same, either by suit in the ^{Witness failing to attend when summoned.}

proper division court, or in any way in which penalties incurred under any by-law of the municipality may be recovered. 10 Edw. VII. c. 90, s. 34.

Procedure for Trial of Complaints.

Who may
give notice
of appeal.

35. Any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharge in the assessment of his own land, or of any roads of the municipality, or of the undercharge of any other lands, or of any road in the municipality, or that lands or roads which should have been assessed, have been omitted from the assessment, may personally, or by his agent, give notice in writing to the clerk of the municipality, that he considers himself aggrieved for any or all the causes aforesaid. 10 Edw. VII. c. 90, s. 35.

Time for
holding
Court of
Revision.

36. The trial of complaints shall be had in the first instance by and before the court of revision of the municipality in which the lands and roads assessed are situate, and the first sitting of such court shall be held pursuant to notice on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law, as the case may be; notice of the first sitting of the court shall be published or served with the by-law, but the court may adjourn from time to time as occasion may require; and all notices of appeal shall be served on the clerk of the municipality at least ten days prior to the first sitting of the court; but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just. 10 Edw. VII. c. 90, s. 36.

Adjournments
and notices
of appeal.

Form of
notice of
complaint.

37. If any complaint is made on the ground that any lands or roads have been assessed too low or wrongly omitted from assessment by the engineer or surveyor, the clerk shall give notice of the complaint and the time of the trial to the owner or person interested in such lands, or in the case of roads to the reeve or other head of the municipality; which notice shall be in the form following or to the like effect:

Take notice that you are required to attend before the Court of Revision at _____ on the _____ day of _____ 19____, in the matter of the following appeal:—

Appellant (name of).

Subject—That you are assessed too low (or as the case may be) for drainage work (naming the drainage work).

To J. K.

(Signed.)

X. V.,
Clerk.

38. The notice in the preceding section mentioned shall be sent by letter addressed to such person at his post office address or at his last known address, at least seven days before the first sitting of the court. 10 Edw. VII. c. 90, s. 38.

39. The clerk of the court shall enter the appeals on a list in the order in which they are received by him, and the court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. 10 Edw. VII. c. 90, s. 39.

40. Such list may be in the following form:—

Form of
list of
appeals.

Appeals from the assessment of the engineer on drainage work, to be heard at the Court of Revision to be held at , commencing at 10 o'clock in the forenoon on the day of 19 .

Appellant.	Omitted or wrongly assessed.	Matter complained of.
A. B.....	Self.....	Overcharged for benefit.
C. D.....	Self.....	Overcharged for outlet.
E. F.....	Self.....	Overcharge for injuring.
G. H.....	J. R.....	Undercharge for benefit.
L. M.....	N. O.....	Undercharge for outlet.
P. Q.....	R. S.....	Undercharge for injuring.
T. U.....	V. W.....	Wrongly omitted.
X. Y.....	Self.....	Wrongly assessed.
etc.	etc.	etc.

10 Edw. VII. c. 90, s. 40.

41. In case any lands or roads have been assessed for the construction or repair of a drainage work, and the same property is afterwards assessed by the engineer or surveyor for the construction or repair of any other drainage work, the court of revision or judge may take into consideration any prior assessment for drainage work on the same property and give such effect thereto as may be just. 10 Edw. VII. c. 90, s. 41.

42. When the ground of complaint is, that lands or roads are assessed too high, and the evidence adduced satisfies the court of revision or judge that the assessments on such lands or roads should be reduced, but no evidence is given of other lands or roads assessed too low or omitted, the court or judge shall adjourn the hearing of such appeal, for a time sufficient to enable the clerk to notify by postal card or letter all persons affected of the date to which such hearing is adjourned; the clerk shall so notify all persons interested, and unless they appear and show cause against the reduction of the assessment appealed against or the increase of their own, the court or judge may dispose of the matter of appeal in such manner as may be just, and the sum by which the assessment appealed against is reduced, if any, may be distributed pro rata over the assessments of its own class or otherwise so as to do justice to all parties. 10 Edw. VII. c. 90, s. 42.

Notice of
result of
appeal.

43. The clerk shall by registered letter immediately after the close of the court, notify all appellants of the result of their appeals and also of the date of the closing of the court of revision. 10 Edw. VII. c. 90, s. 43.

Appeals from Court of Revision.

Appeal to
County
Judge.

44. An appeal from the court of revision shall lie to the judge, not only against a decision of the court of revision, but also against the omission, neglect or refusal of the court to hear or decide an appeal. 10 Edw. VII. c. 90, s. 44.

Time for
giving notice
of appeal.

45. The person appealing shall, in person or by solicitor or agent, file with the clerk of the municipality within ten days after the date of the closing of the court of revision, a written notice of his intention to appeal to the judge. 10 Edw. VII. c. 90, s. 45.

Clerk to
notify
Judge and
Judge to
fix time
and place
for hearing
appeals.

46. The clerk shall immediately after the time limited for filing appeals, forward a list of the same to the judge, who shall then notify the clerk of the day he appoints for the hearing thereof and shall fix the place for holding such hearing at the town hall or other place of meeting of the council of the municipality from the court of revision of which the appeal is made, unless the judge for the greater convenience of the parties and to save expense fixes some other place for the hearing. 10 Edw. VII. c. 90, s. 46.

Notice to
persons
appealed
against.

47. The clerk shall thereupon give notice to all parties appealed against, in the same manner as is provided for giving notice on a complaint to the court of revision, but in the event of failure by the clerk to give the required notice, or to have the same given within proper time, the judge may direct notice to be given for some subsequent day upon which he may try the appeals. 10 Edw. VII. s. 90, s. 47.

Time for
giving
judgment.

48. At the court so holden the judge shall hear the appeals and may adjourn the hearing from time to time, but shall deliver judgment not later than 30 days after the hearing. 10 Edw. VII. c. 90, s. 48.

Clerk of
Court.

49.—(1) The clerk of the municipality shall be the clerk of such court, and shall record the proceedings thereof and shall have the like powers as the clerk of a division court as to the issuing of subpoenas to witnesses upon the application of any party to the proceedings or upon an order of the judge, for the attendance of any person as a witness before him.

Witness fees.

(2) The fees to be allowed to witnesses upon an appeal to the judge under this Act shall be those allowed to witnesses in an action in the division court. 10 Edw. VII. c. 90, s. 49.

Powers of
Judge on
appeal.

50. In all proceedings before the judge as aforesaid, he shall possess all such powers for compelling the attendance of

and for the examination on oath of all parties, and all other persons whomsoever, and for the production of books, papers and documents, and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the division court or county court. 10 Edw. VII. c. 90, s. 50.

Fees and costs of Appeals.

51. The costs of any proceeding before the court of revision, or before the judge as aforesaid, shall be paid or apportioned between the parties in such manner as the court or judge thinks fit, and the same shall be enforced when ordered by the court of revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the judge, by execution to be issued as the judge may direct, either from the county court or any division court within the county in which the municipality is situate. 10 Edw. VII. c. 90, s. 51.

52. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, and the same shall be taxed according to the allowance in the division court for such costs, and in cases where execution issues, the costs thereof as in the like court, and of enforcing the same, may also be collected thereunder. 10 Edw. VII. c. 90, s. 52.

53. The judge shall be entitled to receive from the municipality as his expenses for holding court in any place in the municipality, other than the county town, for the hearing of appeals from the court of revision, \$5 per day and disbursements necessarily incurred. 10 Edw. VII. c. 90, s. 53.

54. The decision of the judge shall be final and conclusive. 10 Edw. VII. c. 90, s. 54.

55. Any change in the assessment of the engineer or surveyor made by the court of revision or by the judge in appeal therefrom shall be given effect to by the clerk of the municipality altering the assessments and other parts of the schedule to comply therewith, and the by-law shall, before the final passing thereof, be amended to carry out any changes so made by the court of revision or judge. 10 Edw. VII. c. 90, s. 55.

ISSUE OF DEBENTURES.

56. Any municipal council issuing debentures under this Act may include the interest on the debentures in the amount payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures in accordance with this section, to the same amount with interest added. 10 Edw. VII. c. 90, s. 56.

Payment of
assessment
before debentures
issued.

57. Any owner of lands or roads, including the municipality, assessed for the work, may pay the amount of the assessment against him or them, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionately reduced. 10 Edw. VII. c. 90, s. 57.

Informalities
not to
invalidate
debentures.

58. No debentures issued under any by-law for the construction or maintenance of any drainage work shall be held to be invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums in the aggregate not exceeding the amount authorized by the by-law. 10 Edw. VII. c. 90, s. 58.

When
debentures
to be valid
and binding to
extent of
amount
advanced.

59. Any debentures issued and sold to provide any sum of money for the construction or repair of any drainage work shall be good in the hands of the purchaser, and be binding upon the corporation issuing them, to the extent of the money actually advanced on the security and interest thereon, according to the provisions of the same, provided no application to quash be made within six weeks from the final passing of the by-law authorizing the issue thereof, notwithstanding that the by-law is afterwards quashed or declared illegal in any proceedings. 10 Edw. VII. c. 90, s. 59.

WORK NOT CONTINUED INTO ANOTHER MUNICIPALITY.

Assessment
of lands which
are benefited.

60.—(1) Where any drainage work is not continued into any other than the initiating municipality, any lands or roads in the initiating municipality or in any other municipality, or roads between two or more municipalities, which will, in the opinion of the engineer or surveyor, be benefited by such work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the engineer or surveyor seems just.

When work
not deemed
out of
initiating
municipality.

(2) A drainage work shall not be deemed to be continued into a municipality other than the initiating municipality merely by reason of such drainage work or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. 10 Edw. VII. c. 90, s. 60.

Where area
lies in
either side
of boundary
road.

61. Where it is necessary to construct a drainage work for the drainage of an area composed of lands or roads lying on either side of a boundary line between two municipalities, the council of either municipality may proceed upon a petition of the majority of the owners of lands or roads within such area in all respects as if such area were entirely within the limits of such municipality. 10 Edw. VII. c. 90, s. 61.

62. Where it is necessary to construct any drainage work or any part thereof on a road allowance used as a boundary line between two or more municipalities, the municipal council of each of the adjoining municipalities may, on the petition of the majority of owners in the area therein described and within its own limits, authorize the same to be constructed on the allowance for road between the municipalities, and may make the road as provided by section 11, and the engineer or surveyor may assess and charge the lands and roads benefited or otherwise liable to assessment in the adjoining municipality or municipalities, as well as the road allowance, with such proportion of the cost of constructing such work as he may deem just. 10 Edw. VII. c. 90, s. 62.

Construction of drainage work on road allowance.

WORK CONTINUED INTO ANOTHER MUNICIPALITY.

63. Where it is required to continue any drainage work beyond the limits of the municipality, the engineer or surveyor employed by the council of such municipality may continue the work on or along or across any allowance for road or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet; and in every such case he may assess and charge regardless of municipal boundaries, all lands and roads to be affected by benefit, outlet or relief, with such proportion of the cost of the work as to him may seem just; and in his report thereon he shall estimate separately the cost of the work within each municipality and upon the road allowances or other boundaries. 10 Edw VII. c. 90, s. 63.

Continuing work beyond the limits of municipality.

64. Wherever any lands or roads in or under the jurisdiction of any adjoining or neighbouring municipality, other than the municipalities into or through which the drainage work passes, are, in the opinion of the engineer or surveyor of the initiating or other municipality doing the work or part thereof, benefited by the drainage work or provided with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, he may assess and charge the same as is provided in the next preceding section. 10 Edw. VII. c. 90, s. 64.

Assessing land in neighbouring municipality when work does not enter same.

SETTLING ASSESSMENTS, ETC., BETWEEN MUNICIPALITIES.

65. The council of any initiating municipality shall serve the head of the municipality or municipalities into or through which the work is to be continued, or whose lands or roads are assessed without the drainage work being continued into it, with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor on the proposed work, and unless the same are appealed from as hereinafter provided, they shall be binding on each and every corporation whose

Council of initiating municipality to notify other municipalities to be affected

council is so served, and the council of the initiating municipality shall be entitled, in the event of no appeal, to proceed with the by-law, and authorize and construct or procure the construction of the whole drainage work in accordance therewith. 10 Edw VII. c. 90, s. 65.

Municipality notified to raise and pay over its proportion of cost.

66. The council of the municipality so served, shall in the same manner as nearly as may be, and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 3, pass a by-law or by-laws to raise, and shall raise and pay over to the treasurer of the initiating municipality within four months from such service, the sum that may be named in the report as its proportion of the cost of the drainage work, or, in the event of an appeal from the report, the sum that may be determined by the Referee or a Divisional Court; and such council shall hold the court of revision for the adjustment of assessments upon its own ratepayers in the manner hereinbefore provided. 10 Edw. VII. c. 90, s. 66.

Appeal to referee from report of engineer.

67.—(1) The council of any municipality served as provided by section 65 may, within six weeks after such service upon its head, appeal to the Referee from the report, plans, specifications, assessments and estimates of the engineer or surveyor, by serving the head of the council from which they received the copy, and also the head of the council of any other municipality assessed by the engineer or surveyor with a written notice of appeal, setting forth therein the reasons for such appeal.

Grounds of appeal.

(2) The reasons of appeal which shall be set out in such notice may be the following or any of them:—

(a) Where the assessment against the appealing municipality exceeds \$1,000, or exceeds the estimated cost of the work in the initiating municipality,—

1. That the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated;
2. That such scheme does not provide for a sufficient outlet;
3. That the course of the drainage work, or any part thereof, should be altered;
4. That the drainage work should be carried to an outlet in the initiating municipality or elsewhere.

(b) In any case not otherwise provided for.

1. That a petition has been received by the council of the appealing municipality, as provided by section 3, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of

any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition;

2. That such appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality;
3. That the initiating municipality should not be permitted to do the work within the limits of the appealing municipality;
4. That the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. 10 Edw. VII. c. 90, s. 67.

68.—(1) Upon an appeal under the preceding section the Referee shall hear and adjudicate upon all questions raised by the notice of appeal, as they may affect any municipality assessed for the drainage work; and he may give to any municipality through or into which the proposed work will be continued, leave to enlarge the same, pursuant to petition in that behalf and according to the report, plans, specifications, assessments and estimates of an engineer appointed by the Referee for that purpose, and may make such order in the premises and as to costs already incurred, and as to costs of the appeal as may seem just.

(2) The order of the Referee upon such appeal shall be subject to appeal to a Divisional Court as in other cases, and the decision of such Court shall be final and conclusive as to all corporations affected thereby.

(3) The council of the initiating municipality may, by resolution passed within thirty days after the decision of the Referee on the appeal to him or in case of an appeal therefrom after the hearing and determination thereof, abandon the proposed drainage work, subject to such terms as to costs and otherwise as to the Referee or the Divisional Court may seem just. 10 Edw. VII. c. 90, s. 68.

AMENDING BY-LAWS.

69.—(1) Any by-law heretofore passed or which may be hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and which has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures may be issued thereunder as they become payable, ^{Amendment of by-law when insufficient funds provided.}

tures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

When lands and roads in another municipality assessable.

(2) Where in any such case lands and roads in another municipality are assessed for the drainage work, the council of the initiating municipality shall procure an engineer or surveyor to make an examination of the work and to report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall serve the heads of the other municipalities as in the case of the original report, plans, specifications, assessments and estimates; and the council of any municipality so served shall have the same right of appeal to the Referee as to the improper expenditure or illegal or other application of the drainage money already raised and shall be subject to the same duty as to raising and paying over its share of the money to be raised, as, in the case of the original by-law, is provided by sections 66 and 67.

Amendment of by-law which provides more than sufficient funds and distribution of surplus.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage work and acted upon by the completion of the work, which provides more than sufficient funds for the completion of or proper contribution towards the work or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and if lands and roads in any other municipality are assessed for the drainage work the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work.

Amendment of by-law not providing sufficient funds.

(4) Any by-law passed prior to the 1st day of June, 1894, by the council of any county or union of counties for the assessment of the cost of any drainage work upon the lands and roads liable to contribute therefor which has been acted upon by the doing of the work in whole or in part and which does not provide sufficient funds to complete the drainage work, or the share of the said county or union of counties of the cost thereof, or does not provide sufficient funds for the redemption of the debentures issued under such by-law, as they become payable, may from time to time be amended by the council and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law; provided that every such drainage work shall, when fully completed, be maintained as provided in section 73. 10 Edw. VII. c. 90, s. 69.

Issuing debentures for completion of county drainage works commenced before 57 V. c. 56.

Publication of amending by-laws.

70. It shall be in the discretion of the council whether an amending by-law passed under any of the provisions of the preceding section shall be published or not, and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of that section, which have heretofore been or may hereafter be purchased by direction of the Lieutenant-Governor in Council. 10 Edw. VII. c. 90, s. 70.

Rev. Stat. c. 43.

MAINTENANCE OF DRAINAGE WORK.

71. Any drainage work constructed under a by-law of any municipality passed in pursuance of this or any former Act relating to the construction of drainage work by local assessment, and which is not continued into any other municipality, shall after the completion thereof be maintained by the initiating municipality, Maintenance of work not continued into another municipality.

- (a) If no lands or roads in any other municipality are assessed for the construction thereof, then at the expense of the lands and roads in the initiating municipality in any way assessed for such construction, according to the assessment of the engineer or surveyor in his report and assessment for the original construction of such drainage work, or,
- (b) If lands or roads in any other municipality or roads between two or more municipalities are in any way assessed for the construction of such drainage work, then at the expense of all the lands and roads in any way assessed for such construction in the municipalities affected, and in the proportion determined by such report and assessment, or in appeal therefrom by the award of arbitrators or order of the referee,—

Unless or until such assessment or proportion as the case may be, is varied or otherwise determined from time to time by the report and assessment of an engineer or surveyor for the maintenance of the drainage work, or in appeal therefrom by the order of the Referee. 10 Edw. VII. c. 90, s. 71.

72. Any drainage work heretofore constructed under a by-law of a municipality, passed in pursuance of any Act relating to the construction of any drainage work by local assessment, or hereafter constructed under the provisions of this Act, which is continued into or through more than one municipality, or which is commenced by the initiating municipality on a road allowance adjoining such municipality and is continued thence into the lands of any other municipality shall after the completion thereof be maintained by the initiating municipality from the point of commencement of the drainage work in the municipality or upon such road allowance to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, and by such last mentioned municipality and by every other municipality through or into which the drainage work is continued from the point at which the drainage work crosses the boundary line between a road allowance and lands in the municipality to an outlet in the municipality or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, as the case may be, at the expense of the lands and roads in Maintenance of drainage work passing into another municipality.

any way assessed for the construction thereof and in the proportion determined by the engineer or surveyor in his report and assessment for the original construction or in appeal therefrom by the award of the arbitrators or order of the Referee, unless and until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work in appeal therefrom by the order of the Referee. 10 Edw. VII. c. 90, s. 72.

Maintenance of drains constructed by government or under county by-laws.

73.—(1) Where a drainage work constructed before the 5th day of May, 1894, under the provisions of *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, or any Act in amendment thereof or under a by-law passed by a county council does not extend beyond the limits of one municipality, such drainage work shall be maintained and kept in repair by such municipality at the expense of the lands and roads in any way liable to assessment under the provisions of this Act.

When such drains extend into another municipality.

(2) Any drainage work constructed before the 5th day of May, 1894, under *The Ontario Drainage Act* of 1887, or any Act in amendment thereof or under a by-law passed by a county council, which continues from the municipality in which the drainage work commences into or through one or more other municipalities, shall be maintained and kept in repair by the municipality in which the drainage work commences, from the point of commencement to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, or to the outlet on such road allowance as the case may be, and by every other municipality through or into which the drainage work is continued, from the point at which the same crosses the boundary line between any road allowance and lands in the municipality and enters upon such lands to an outlet in the municipality, or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in an adjoining municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof, and in the proportion determined by the assessors or engineer or surveyor in their assessment roll or report as the case may be, for construction, or in appeal therefrom by the award of arbitrators or order of the Referee, unless and until in the case of each municipality such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the Referee.

Where work deemed to commence.

(3) A drainage work which commences on a road allowance between two municipalities shall, for the purposes of this section, be deemed to commence in the municipality next adjoining that half of the road allowance upon which the drainage work is begun. 10 Edw. VII. c. 90, s. 73.

74.—(1) The council of any municipality undertaking the repair of any drainage work under sections 71, 72 or 73, shall, before commencing the repairs serve upon the head of any municipality liable to contribute any portion of the cost of such repairs under the provisions of this Act, a certified copy of the by-law for undertaking the repairs, as the same is provisionally adopted, which by-law shall recite the description, extent and estimated cost of the work to be done and the amount to be contributed therefor by each municipality affected by the drainage work; and the council of any municipality so served may, within thirty days thereafter, appeal from such by-law to the Referee on the ground that the amount assessed against the lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage work has never been completed through the default or neglect of the municipality whose duty it was to do the work, in the manner provided in the case of the construction of the drainage work; and the Referee on such appeal may alter, amend or confirm such by-law, or may direct that the same shall not be passed as to him may seem just, and his order upon such appeal shall be subject to appeal to a Divisional Court, and the decision of that Court shall be final and conclusive as to all corporations affected thereby.

(2) The council of every municipality served with the provisional by-law shall, within four months after such service, pass a by-law to raise, and shall, within that period raise and pay over to the treasurer of the initiating municipality the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as settled on appeal therefrom by the order of the Referee. 10 Edw. VII. c. 90, s. 74.

VARYING ASSESSMENT.

75.—(1) The council of any municipality liable for the maintenance of any drainage work may from time to time as the same requires repairs vary the proportions of assessment for maintenance, on the report and assessment of an engineer appointed by the council to examine and report on the condition of the work, or the portion thereof, as the case may be, which it is the duty of the municipality as aforesaid to maintain and on the liability to contribute of lands and roads which were not assessed for construction, and have become liable to assessment under this Act; and the engineer or surveyor may in his report upon such repairs assess lands and roads in the municipality undertaking the repairs and in any other municipality from which water flows through the drainage work in to the municipality undertaking the repairs; but he shall not, except after leave given by the Referee on an application of which notice has been given to the head of every municipality affected, assess for such repairs any lands or roads lying in any municipality into which water flows through the drainage work from the municipality undertaking the repairs.

Proceedings
on report
of engineer.

(2) The proceedings upon such report and assessment shall be the same, as nearly as may be, as upon the report for the construction of the drainage work.

Appeal from
report of
engineer.

(3) Any council served with a copy of such report and assessment may appeal to the Referee from the finding of the engineer as to the portion of the cost of the work for which the municipality is liable, and the proceedings on such appeal shall be the same as in other cases of appeals to the Referee under this Act.

Appeal to
Court of
Revision.

(4) Any owner of lands and any ratepayer in the municipality as to roads assessed for such repairs may appeal from such assessment in the manner provided in the case of the construction of the drainage work, and the council of every municipality affected by the report of the engineer or surveyor made under this section shall appoint a court of revision for the trial of any appeals in the manner hereinbefore provided.

Basis of
future
assessments.

(5) Such assessment as so varied shall thereafter, unless or until it is further varied, form the basis of any assessment for maintenance of the drainage work affected thereby. 10 Edw. VII. c. 90, s. 75.

REPAIRING WITHOUT REPORT.

Deepening,
widening or
extending
without
report of
engineer.

76. The council of any municipality, whose duty it is to maintain any drainage work for which only lands and roads within or under the jurisdiction of such municipality are assessed, may, after the completion of the drainage work, without the report of an engineer or surveyor upon a *pro rata* assessment on the lands and roads as last assessed for the construction or repair of the drainage work, make improvements thereto by deepening, widening or extending the same to an outlet, provided the cost of such deepening, widening and extending is not above one-fifth of the cost of the construction, and does not exceed in any case \$800; and in every case where the cost of the improvements exceeds such proportion or amount, the proceedings to be taken shall be as provided in section 77. 10 Edw. VII. c. 90, s. 76.

REPAIRING UPON REPORT.

Repairing
upon exami-
nation and
report by
engineer.

77.—(1) Wherever, for the better maintenance of any drainage work constructed under the provisions of this Act or any Act respecting drainage by local assessment, or to prevent damage to any lands or roads it is deemed expedient to change the course of such drainage work, or make a new outlet for the whole or any part of the work, or otherwise improve, extend, or alter the work, or to cover the whole or any part of it, the council of the municipality or of any of the municipalities whose duty it is to maintain such drainage work, may, without the petition required by section 3, but on the report of an engineer or surveyor appointed

by them to examine and report on the same, undertake and complete the change of course, new outlet, improvement, extension, alteration or covering specified in the report, and the engineer or surveyor shall for such change of course, new outlet, improvement, extension, alteration or covering, have all the powers to assess and charge lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act.

(2) The provisions of this section shall apply to the better maintenance of a natural stream, creek or watercourse which has been artificially improved by local assessment or otherwise, and to any drainage work constructed under the provisions of *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, in the same manner, to the same extent, and by the same proceedings as are hereby made applicable to the better maintenance of a drainage work wholly artificial. 10 Edw. VII. c. 90, s. 77 (1-2). Application of section.

(3) Such drainage work shall thereafter be maintained as hereinbefore by this Act provided, but on the basis of the new assessment, unless or until such assessment is varied or otherwise determined as provided by section 75. 10 Edw. VII. c. 90, s. 77 (3); 2 Geo. V. c. 17, s. 36 (1). Future maintenance.

(4) Nothing contained in this section or in section 76 shall be construed as requiring a municipal council to procure the report of an engineer before undertaking any work in pursuance of sections 71, 72 or 73. 2 Geo. V. c. 17, s. 36 (2). Report of engineer as to work under ss. 71, 72 or 73 not essential.

REPAIRING WORK CONSTRUCTED OUT OF GENERAL FUNDS.

78.—(1) Any drainage work heretofore or hereafter constructed out of the general funds of any municipality, or out of the general funds of two or more municipalities, or when constructed by statute labour, or partly by statute labour and partly by general funds or out of funds raised by a local assessment under a by-law which is afterwards found to be illegal or which does not provide for repairs, need not be repaired out of such general funds, but the council of any of the contributing municipalities may, without the petition required by section 3, on the report of an engineer or surveyor, pass a by-law for maintaining the same at the expense of the lands and roads assessable for such work, and may assess the lands and roads in any way liable to assessment under this Act, for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act. Assessment for repair of work constructed out of general funds.

(2) Any such drainage work may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened, extended, or provided with Deepening, etc., drain constructed out of general funds.

a new outlet for the whole or any part thereof. 10 Edw. VII. c. 90, s. 78.

Estimating and assessing damage for overflow where cost of work exceeds damage.

79.—(1) Where an engineer or surveyor is directed by the council to make an examination and report under section 77 or subsection 2 of section 78, and upon such examination he is of opinion that the cost of changing the course of, making a new outlet for or otherwise improving, extending or altering the work so that it will be of sufficient capacity to carry off the water to a sufficient outlet will exceed the amount of injury caused or likely to be caused to low-lying lands along the course of or below the termination of the work, then in lieu of such change of course, new outlet, improvement, extension or alteration, or any part of such work, he may in his estimate of the cost of the work include a sufficient sum to compensate the owners of such low-lying lands for any injuries sustained from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low-lying lands in respect of such injuries.

Appeal of owner to Referee.

(2) Any owner of such low-lying lands, if dissatisfied with the provision for compensation made by the report of the engineer, may appeal therefrom to the Referee in manner provided by subsection 7 of section 9, and the Referee may hear and determine such appeal in manner as provided by that subsection. 10 Edw. VII. c. 90, s. 79.

MANDAMUS TO COMPEL REPAIR.

Power to compel repairs by mandamus.

80.—(1) Upon reasonable notice in writing from any person or municipality interested in a drainage work who or whose property is injuriously affected by the condition of the drainage work, the municipality whose duty it is to maintain and keep in repair the drainage work, shall be compellable by mandamus issued by the Referee or other court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by sections 71 to 78, or such of the said powers as to the Referee or court may seem proper, and shall also be liable in pecuniary damages to the person or municipality who or whose property is so injuriously affected.

(a) Any party to such proceedings may by leave of the Referee or of a Divisional Court or a judge thereof, appeal to a Divisional Court from the decision or judgment of the Referee.

(b) A mandamus against the municipality shall not be moved for until after the lapse of thirty days from the date of the service of the notice. 10 Edw. VII. c. 90, s. 80.

Liability of municipality for damages caused by non-repair.

(2) Notwithstanding anything contained in subsection 1, the municipality whose duty it is to maintain and keep in repair a drainage work, shall not become liable in pecuniary

damages to any owner of land whose property is injuriously affected by reason of the non-repair of such drainage work, unless and until after service by or on behalf of such owner of notice in writing upon the reeve or clerk of such municipality, describing with reasonable certainty the alleged lack of repair of such drainage work. 1 Geo. V. c. 60, s. 1.

REPAIRS BY OWNERS.

81.—(1) It shall be lawful for the council of any municipality to pass a by-law or by-laws providing that it shall be the duty of the owner of every lot or part of a lot, assessed for benefit, to clean out the drain and keep the same free from obstructions which may hinder or impede the free flow of the water, and to remove therefrom all weeds and brushwood and to keep the banks of the drain in order, to the extent and in manner or proportion and for the distance determined by the engineer in his report, and, in case any such owner makes default in so doing for thirty days after notice in writing from the council of the municipality, the work may be done by the council or by any officer appointed by it for the purposes of the drain, and the cost thereof, after notice of the same to the person so making default and liable therefor, shall be placed on the collector's roll against the lands of such owner and shall be chargeable against such lands and be collected in the same manner as other municipal or drainage assessments.

(2) The engineer or surveyor shall in his report state the portion of the drain already or thereafter to be constructed which shall be by each owner assessed for benefit, cleaned out and kept clear and free from obstructions and in good order as prescribed by this section. 10 Edw. VII. c. 90, s. 81.

82.—(1) When any drainage work, heretofore or hereafter constructed, becomes obstructed by dams, low bridges, fences, washing out of private drains, or other obstructions, for which the land adjoining the drainage work or the owner or person in possession thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council or by an inspector appointed by the council for the inspection and care of drains, remove such obstructions in any manner caused as aforesaid and, if not so removed within the time specified in the notice, the council or the inspector shall forthwith cause the same to be removed.

(2) The council may, by by-law, appoint an inspector for the purposes mentioned in the preceding subsection, and shall in the by-law regulate the fees or other remuneration to be received by him.

Collection
of cost of
removal by
municipality.

(3) If the cost of removing such obstruction is not paid by the owner or occupant of the lands liable, to the municipality forthwith after the completion of the work, the council may pay the same, and the clerk of the municipality shall place such amount upon the collector's roll against the lands liable, with ten per cent. added thereto, and the same shall be collected like other taxes, subject, however, to an appeal to the judge by the owner or occupant, in respect of the cost of the work. 10 Edw. VII. c. 90, s. 82.

Minor
repairs.

83. The council of any municipality may by by-law direct that the inspector appointed under section 82 shall from time to time remove from any drainage work all weeds and brushwood, fallen timber or other minor obstructions for which the owner of the lands adjacent to the drainage work may not be responsible, and the cost of such work shall be chargeable from time to time against the lands assessed for the maintenance of the drainage work, and in the proportion fixed by the by-law authorizing the drainage work, but it shall not be necessary to assess and levy the amount so charged more than once in every five years after the passing of such first mentioned by-law, unless in the meantime the total expense incurred shall exceed the sum of \$100. 10 Edw. VII. c. 90, s. 83.

CUTTING EMBANKMENTS, BANKS, ETC.

Penalty for
injury to embankments,
etc.

84. Any person who obstructs, fills up or injures any drainage work, or destroys, cuts, or injures any embankment of any pumping works, or of any other drainage work, in addition to his liability in civil damages therefor, upon the complaint of the council of the municipality or of any person affected by such obstructing, filling up, destroying, cutting, or injuring, upon summary conviction thereof, shall incur a penalty of not less than \$5 nor more than \$100 and shall also be liable to imprisonment for any term not exceeding six months, and in default of payment of such penalty shall further be liable to imprisonment for any term not exceeding three months. 10 Edw. VII. c. 90, s. 84.

REMOVING ARTIFICIAL OBSTRUCTIONS.

Removal of
dams, etc.,
on construction
of work.

85. Wherever, in the construction of any drainage work any dam or other artificial obstruction exists in the course of or below the work, and is situate wholly within the municipality doing the work, the council shall have power, with the consent of the owner thereof and of the council or councils of the other municipalities liable to assessment for the cost of the work, and upon payment of such purchase money as may be mutually agreed upon, or in default of such consent or agreement be determined by the Referee, to remove the same wholly or in part; and any amount so paid or payable as purchase money shall be deemed part of the cost of construction and be provided for in the assessment by the engineer or surveyor. 10 Edw. VII. c. 90, s. 85.

OPERATING PUMPING WORKS.

86.—(1) For the better maintenance of drainage work by Appointment of commissioners for pumping works, etc. embanking, pumping or other mechanical operations, the council of the municipality initiating the work may pass by-laws appointing a commissioner or commissioners who shall have power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating such drainage work, as may be set forth in the by-law appointing them; and the council may pass by-laws for defraying the annual cost of maintaining and operating the work by assessment upon the lands and roads in any way liable to assessment under the provisions of this Act.

(2) Upon the petition of two-thirds of the resident owners Powers which may be granted to them. in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipments belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws but so that the profits or benefits of such user shall accrue to the owners. 10 Edw. VII. c. 90, s. 86.

87. Upon the petition of two-thirds of the persons interested Assuming pumping works, etc., constructed by private persons. in any drainage work constructed by embanking, pumping or other mechanical operations, and not constructed by the municipality, the council of the municipality in which the work is situate may assume the work and maintain and operate the same, in the same manner and to the same extent as if such drainage work had been constructed under the provisions of this Act, but at the cost of the lands and roads liable to be assessed for the work. 10 Edw. VII. c. 90, s. 87.

DEBENTURES FOR MAINTENANCE.

88.—(1) Where the maintenance of any drainage work is Powers to issue debentures for maintenance. so expensive that the municipal council liable therefor deems it inexpedient to levy the cost thereof in one year, the council may pass a by-law to borrow, upon the debentures of the municipality, the amount necessary for the work, or its proportion thereof, and shall assess, and levy upon the lands and roads liable therefor a special rate sufficient for the payment of the debentures.

(2) Where such debentures are issued for work done under the provisions of section 77, such debentures shall be payable Time at which debentures to be payable. within twenty years from the date thereof, and where such debentures are issued for the cost of repairs undertaken under any other provision such debentures shall be payable within seven years from the date thereof.

Application of
Rev. Stat. c. 43.

(3) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under any by-laws passed under this section, which has before its final passing been published or of which the ratepayers have been notified in manner provided by this Act or which has, after its passing been promulgated as required by section 281 of *The Municipal Act*. 10 Edw. VII. c. 90, s. 88.

Rev. Stat.
c. 192.

PAYING BACK ADVANCES.

Repayment
of advances
from general
funds on
receipt of
assessments.

89. Any money which has been or may hereafter be advanced by the council of any municipality out of its general funds for the purposes of any drainage work in anticipation of the levies and collections therefor, shall be repaid into the general funds of the municipality as soon as the money first derived from the assessment is collected. 10 Edw. VII. c. 90, s. 89.

MUNICIPALITY ASSUMING AWARD DRAINS.

Power to
bring drains
constructed
under Rev.
Stat. c. 260,
within this
Act.

90. Upon a petition presented to the council of any municipality as provided for in section 3, having within the area described therein any drain constructed under *The Ditches and Watercourses Act* or any other Act providing for assessment in work, signed by a majority of the owners interested in such ditch or drain, the council may assume the same and proceed thereon in the same manner and to the same extent as for the construction of any drainage work under the provisions of this Act, and the passing of the by-law under the provisions of this Act shall in every such case be a bar to any further proceedings upon the award or under the provisions of the Act upon which such award is based. 10 Edw. VII. c. 90, s. 90.

COST OF REFERENCE AND INCIDENTAL EXPENSES.

Certain
expenses to
be deemed
part of the
cost of
the work.

91. Except where otherwise provided by this Act, the cost of any reference had in connection with the construction or maintenance of any drainage work, the cost of the publication or service of by-laws, and all other expenses incidental to the construction or maintenance of the work and the passing of the by-laws, shall be deemed part of the cost of such work, and shall be included in the amount to be raised by local rate on all lands and roads liable therefor. 10 Edw. VII. c. 90, s. 91.

LANDLORD AND TENANT.

Tenant's
covenant to
pay taxes—
when to
include
drainage
assessments.

92. Any agreement on the part of any tenant to pay the rates or taxes in respect of the demised lands, shall not include the charges and assessments for any drainage work unless such agreement in express terms so provides; but in cases of contract to purchase or of leases giving the lessee an option to purchase, the charges and assessments for drainage

work in connection with which proceedings were commenced under this Act, after the date of the contract or lease, and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase; but the amount still unpaid on the cost of the work or repair, and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. 10 Edw. VII. c. 90, s. 92.

DRAINAGE REFEREES.

93.—(1) The Lieutenant-Governor in Council from time to time may appoint two referees for the purpose of the drainage laws; that is to say, *The Ontario Drainage Act*, the provisions of this Act, and other Acts, and parts of Acts on the same subject. Referees, appointment of. Rev. Stat. 1897, c. 36.

(2) Such referees shall be deemed to be and shall be officers of the Supreme Court. To be officers of Supreme Court.

(3) They shall be barristers of at least ten years' standing at the Bar of Ontario. Qualification.

(4) They shall hold office by the same tenure as official referees under *The Judicature Act*. Tenure of office. Rev. Stat. c. 56.

(5) They shall not practise as solicitors or barristers in any matter arising under this Act, nor act as legal agents or advisers in any such matter. Not to practise.

(6) They shall each be paid a salary of such amount as may be appropriated by this Legislature for the purpose, not exceeding \$3,500 a year, to be paid monthly, together with their reasonable travelling expenses. Salary.

(7) One of such referees shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in the Counties of Stormont, Dundas and Glengarry, Prescott and Russell, Leeds and Grenville, Frontenac, Lennox and Addington, Prince Edward, Hastings, Northumberland and Durham, Victoria, Haliburton, Peterborough, Renfrew, Lanark, Carleton, and the other Referee shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in all the other counties and districts in Ontario. Jurisdiction.

(8) Where either of the referees is absent or owing to illness or other cause is unable to act, or where the office of either referee is vacant, the remaining referee shall act and shall have jurisdiction as referee over the whole province until the vacancy is filled or the other referee is able to act. 10 Edw. VII. c. 90, s. 93. Absence or illness.

94.—(1) The Referee shall have the powers of an Official Referee under *The Judicature Act* and *The Arbitration Act* and of arbitrators under any former enactments relating to drainage works. Referee to have powers of an official referee under Rev. Stat. cc. 56, 65.

Powers as to compelling production, amending notices, etc.

(2) In respect to all applications and proceedings before him or which may come before him under the provisions of this Act, or any former Act relating to drainage works, he shall have the powers of a Judge of the Supreme Court including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings; he may correct errors, or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers, surveyors or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do complete justice between the parties; he may also grant an injunction or a mandamus in any matter before him under this Act.

Granting a mandamus or injunction.

Power to determine validity of proceedings and amend report.

(3) The Referee shall have power, subject to appeal as hereinafter provided, to determine the validity of all petitions, resolutions, reports, provisional or other by-laws, whether objections thereto have been stated as grounds of appeal to him or not, and to amend and correct any provisional by-law in question; and, with the engineer's consent and upon evidence given, to amend the report in such manner as may be deemed just, and upon such terms as may be deemed proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the court of revision or a county judge. 10 Edw. VII. c. 90, s. 94.

Interlocutory applications, no appeal from referee, thereon.

95. All interlocutory applications for any of the purposes mentioned in subsection 2 of the last preceding section shall be made to the Referee and his order thereon shall be final and conclusive. 10 Edw. VII. c. 90, s. 95.

APPEALS FROM ASSESSMENT.

Notice of appeal from assessment to be filed.

96. A copy of the notice of appeal by any municipality from the report, plans, specifications, assessments, and estimates of an engineer or surveyor or from a provisionally adopted by-law, with an affidavit of service thereof shall, within the time limited by this Act for the service of the same, be filed in the office of the clerk of the county court of the county or union of counties in which the drainage work commenced. 10 Edw. VII. c. 90, s. 96.

Amendment of by-law to carry out decision of referee.

97. The by-law of the initiating municipality and of any other municipalities interested shall be amended so as to incorporate and carry into effect the decision or report of the Referee or such decision or report as varied on appeal, as the case may be. 10 Edw. VII. c. 90, s. 97.

98.—(1) Subject to the provisions of section 99, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an engineer, resolution of a council, by-law provisionally adopted or finally passed relating to a drainage work as hereinbefore defined, as well as all proceedings to determine claims and disputes arising between municipalities or between a company and a municipality or between individuals and a municipality, company or individual in respect of anything done or required to be done under the provisions of this Act or consequent thereon, or by reason of negligence, or for a mandamus or injunction, shall be made to and shall be heard and tried by the Referee, who shall hear and determine the same and give his decision and his reasons therefor.

Application to set aside drainage by-law, Report, petition or resolution to be made to referee.

(2) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence, or by way of compensation or otherwise, or for a mandamus or an injunction, under this section, shall be instituted by serving ten clear days' notice setting forth the grounds of the claim for damages or compensation or a mandamus or an injunction as the case may be upon all persons concerned.

Proceedings to be instituted by notice.

(3) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the county court of the county in which the land is situate and the notice shall be filed and served within two years from the time the cause of complaint arose.

Notice to be filed in County Court.

(4) All affidavits intended to be used in support of a motion shall be filed with the clerk of the county court not less than five days before the return day of the motion.

Affidavits to be filed 10 days before motion.

(5) Subject to the provisions of section 99, no application or proceeding within the meaning of this section shall be made or instituted otherwise than as herein provided.

Application not to be made otherwise.

(6) Where the amount awarded upon a claim for damages arising out of a drainage work does not exceed \$60, the costs allowed to the plaintiff shall be on the division court scale so far as the same is applicable. 10 Edw. VII. c. 90, s. 98.

Costs on claims not exceeding \$60 on Division Court scale.

(7) Where the amount awarded is upon a claim for damages by reason of the non-repair of a drainage work, the costs allowed shall be on the division court scale. 1 Geo. V. c. 60, s. 2.

Costs in award of damages for non-repair.

99.—(1) Where an action is brought or is pending and the Court in which the same is brought or is pending or a Judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that the same may be more conveniently tried before and disposed of by the Referee, the court or judge may, on the application of either party, at any stage of the action make an order transferring it to the Referee on such terms as may be deemed just, and the Referee shall thereafter give directions for the con-

Actions may be transferred to referee.

tinuance of the action before him, which shall be as far as practicable in conformity with the provisions of this Act as to proceedings by a notice of motion, and subject to the order, all costs shall be in his discretion.

Application of section.

(2) This section shall apply only where the action is brought within the period limited by this Act for taking proceedings on notice. 10 Edw. VII. c. 90, s. 99.

Decision of Court of Appeal to be final.

100. The decision of the referee in all applications and proceedings under this Act, not otherwise provided for as being final and conclusive between the parties, shall be subject to appeal to a Divisional Court and its decision thereon shall be final, conclusive and binding upon all parties to the application or other proceeding. 10 Edw. VII. c. 90, s. 100.

Assessing damages and costs payable by municipalities.

101.—(1) Save as provided by subsections 2, 3 and 4 of this section all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof for construction or maintenance, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

In what cases damages and costs may be ordered to be paid by municipality.

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction of the drainage work or in carrying out the provisions of this Act, the Referee or court may direct that the whole or any part of such damages and costs shall be borne by such municipality and be payable out of the general funds thereof.

In cases of amicable settlement.

(3) Where in any such proceedings by or against a municipality an amicable settlement is arrived at and carried out by the advice of counsel, the damages and costs payable under the terms of such settlement by any municipality shall be borne and paid as directed by the Referee on application to him on behalf of the council of the municipality or any owner of lands assessed for the construction or maintenance of the drainage work, and in making such direction the Referee shall have regard to the provisions of the next preceding subsection.

Where extension, etc., of drainage work necessary.

(4) Where in the opinion of the Referee damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage work and it is necessary in order to prevent a continuance of such damage to improve, extend or alter the said drainage work, the Referee may by his report permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, extension or alteration, and in such case the engineer shall include the amount of such damages and costs in his estimate of such cost and the same shall thereafter

be assessed, levied and collected as if it were part of the actual cost of the drainage work. 10 Edw. VII. c. 90, s. 101.

CROSSING RAILWAY LANDS.

102.—(1) Whenever by the report of an engineer or surveyor, drainage works are proposed to be carried upon, along, under or across the lands of any railway company, the council initiating the scheme shall serve the railway company with a copy of the report, plans, specifications, assessments or other estimates of the engineer or surveyor of the proposed works, and the company so served shall at any time within three weeks after such service have a right to appeal to the referee upon any question arising in connection with that portion of the drain or drainage work upon, along, under or across its railway or lands.

(2) Upon any appeal under the preceding subsection, the referee shall hear and adjudicate upon all questions raised in the notice of appeal, may amend the report appealed from and make such order in the premises as may be deemed just.

(3) The costs of such appeal to the referee shall be payable by the railway company, appellants, in any event.

PROCEEDING WITH REFERENCE.

103.—(1) The Referee at any time after an appeal or reference is made to him as hereinbefore provided, may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to either or any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but unless the parties otherwise consent the hearing shall be in the county or one of the counties in which the drainage work or proposed drainage work is situate or in which lands are assessed.

(2) The clerk of the county court shall be the clerk of the court of the referee, and shall take charge of and file all the exhibits, and shall be entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the county court.

(3) The clerk shall be entitled to such fees as the Referee may direct, not exceeding \$4 per day for his attendance at the court and such fees shall be included in the costs and shall be borne and paid as the Referee may direct.

(4) The fees payable to the clerk shall be paid in money and not in stamps.

Referee's
clerk.

(5) In the absence of the clerk of the county court the Referee may appoint the Referee's clerk or some other person to act as clerk for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed shall while so acting have the same power and be entitled to the same fees as the clerk of the county court would have and be entitled to if personally present.

Subpoenas.

(6) Subpoenas for the attendance of witnesses at the hearing, tested in the name of the Referee, may be issued by the clerk of the county court of the county in which the case is to be heard. 10 Edw. VII. c. 90, s. 102.

Shorthand
writer.

(7) Two or more shorthand writers may from time to time be appointed by the Lieutenant-Governor in Council to report hearings or trials before the Referee, and every such officer shall be deemed to be an officer of the Supreme Court, and shall be paid in the same manner as shorthand writers in the Supreme Court are paid and the several sections of *The Judicature Act* respecting shorthand writers shall apply to any shorthand writer appointed under this Act. 10 Edw. VII. c. 90, s. 104.

Rev. Stat. c. 56.

When referee
proceeds on
view or
special know-
ledge.

104. When the Referee proceeds partly on view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to allow a Divisional Court to form a judgment of the weight which should be given thereto; and he shall state as part of his reasons the effect by him given to such statement. 10 Edw. VII. c. 90, s. 103.

Clerk of
Court to for-
ward notice
filing report,
etc., to
parties.

105. The decision or report of the Referee with the evidence, exhibits, and statement, if any, of inspection or of technical knowledge and the reason for his decision shall be filed in the office of the clerk of the county court, and notice of the filing shall forthwith be given by the clerk, by post or otherwise, to the solicitors of the parties appearing by solicitor, and to other parties not represented by a solicitor, and also to the clerk of the municipality or other corporation. 10 Edw. VII. c. 90, s. 105.

Report to be
sent to clerk
of each muni-
cipality inter-
ested.

106. A copy of the decision or report certified by the Referee or clerk aforesaid, shall be sent or delivered to the clerk of every municipality interested in the drainage work in question upon receipt of the sum chargeable therefor, as hereinbefore provided, and shall be kept on file as a public document of the municipality. 10 Edw. VII. c. 90, s. 106.

Decision to be
in form of
order for
judgment.

107. The decision or report of the Referee shall be in the form of an order for judgment and may be delivered as decisions by the judges of the Supreme Court are, and need not be in the form of a report; and unless appealed from to a Divisional Court, as herein provided, judgment may be entered in the proper office without any further or other application or order. 10 Edw. VII. c. 90, s. 107.

108. When an appointment is given by the Referee for the hearing of any matter under this Act in any city, town or place wherein a court house is situated, he shall have in all respects the same authority as a Judge of the Supreme Court in regard to the use of the court house, or other place or apartments set apart in the county for the administration of justice. 10 Edw. VII. c. 90, s. 108.

109. Sheriffs, deputy-sheriffs, constables and other peace officers shall aid, assist and obey the Referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificates of the said Referee, be paid by the county or counties interested, like fees as for similar services at the sittings of the High Court Division for the trial of causes. 10 Edw. VII. c. 90, s. 109.

110. Except as in this Act otherwise provided and subject to the provisions thereof, the rules and practice for the time being of the Supreme Court shall be followed so far as the same are applicable. 10 Edw. VII. c. 90, s. 110.

111. In cases brought before the Referee in pursuance of the powers conferred by this Act, or by any other Act, the evidence taken before him need not be filed, and need only be written out at length by the shorthand writer, if required by the Referee or by any parties to the reference; and if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the Lieutenant-Governor in Council. 10 Edw. VII. c. 90, s. 111.

112. Costs shall be taxed by the Referee; or he may direct the taxation thereof by the clerk of the county court with whom the papers are filed, or by any taxing officer of the Supreme Court. 10 Edw. VII. c. 90, s. 112.

113. Fees shall be paid in stamps or otherwise in the same manner as in the case of other proceedings in such courts respectively, until other provision is made in that behalf by competent authority. 10 Edw. VII. c. 90, s. 113.

114. To provide a fund for or towards the payment of the Referee's salary and other expenses, there shall be further payable a sum which shall be determined by the Referee and mentioned in his decision or report or in a subsequent report; the said sum not to exceed the rate of \$4 a day for every full day the trial occupies, and shall be paid in stamps by one or the other of the parties, or distributed between or among the parties as the Referee directs. 10 Edw. VII. c. 90, s. 114.

115. The decision or report of the Referee shall not be given out until stamped with the necessary stamps. 10 Edw. VII. c. 90, s. 115.

Appealing to
Court of
Appeal, time
for.

116.—(1) The decision or report of the Referee, on any appeal or reference under this Act, or in any action or proceeding transferred or referred to him under this Act shall be binding and conclusive upon all parties thereto, unless appealed from to a Divisional Court within one month after the filing thereof, or within such further time as the Referee or a Divisional Court or a judge thereof may allow, save as otherwise provided by this Act in any case where it is declared that the decision of the Referee shall be final.

Procedure.

(2) The decision or report may be appealed against to a Divisional Court in the same manner as from a decision of a judge of the Supreme Court sitting in court. 10 Edw. VII. c. 90, s. 116.

RULES AND TARIFF OF COSTS.

Judges of
Supreme
Court may
make rules.

117. The Judges of the Supreme Court shall have the same authority to make general rules with respect to proceedings before the Referee and appeals from him as they have with respect to proceedings under *The Judicature Act*; and section 110 of that Act shall apply thereto. 10 Edw. VII. c. 90, s. 117.

Rev. Stat. c. 56.

Referee may
make rules.

118.—(1) Subject to any such general rules the Referee shall have power, with the approval of the Lieutenant-Governor in Council, to frame rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and also to frame tariffs of fees in cases not otherwise provided for.

Publication.

(2) Such rules and tariffs, whether made by the judges or the Referee, shall be published in the *Ontario Gazette* and shall thereupon have the force of law; and the same shall be laid before the Assembly at its next Session after promulgation thereof. 10 Edw. VII. c. 90, s. 118.

Tariff of
county court
adopted until
rules made.

119. Until other provisions are made under the last two preceding sections the tariff of the county court shall be the tariff of costs and of fees and disbursements for solicitors and officers under this Act and the Referee shall have the power to fix counsel fees. 10 Edw. VII. c. 90, s. 119.

FORM 1.

FORM OF PETITION FOR DRAINAGE WORK.

(Section 4).

The petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll of the township of _____ in the county of _____ to be the owners of the lands to be benefited within said township, and hereinafter described, sheweth as follows:

Your petitioners request that the area of land within the said township and being described as follows: that is to say, lots numbered 1 to 10 inclusive in the first concession; lots lettered A to H inclusive in the second concession; north-west halves of lots numbered 4 to 12 inclusive in the third concession; the side-road between lots numbered 7 and 8 in the first concession, and the road allowance between concessions 1 and 2 and between 2 and 3 (*as the case may be, or describing the area by metes and bounds*), may be drained by means of:—

1. A drain or drains.
2. Deepening, straightening, widening, clearing of obstructions or otherwise improving the stream, creek or watercourse, known as (*name or other general designation*).
3. Lowering the water of lake _____ or the pond known as (*name or other general designation*), (*or by any or all of said means.*)

And your petitioners will ever pray:—

10 Edw. VII. c. 90, Schedule A.

FORM 2.

FORM OF BY-LAW.

(Section 23.)

A by-law to provide for drainage work in the _____ of _____ in the county of _____ and for borrowing on the credit of the municipality, the sum of _____ for completing the same (*or the sum of _____ the proportion to be contributed by said municipality for completing the same*).

Provisionally adopted the _____ day of _____ A.D. 19 _____

Whereas the majority in number of the resident and non-resident owners (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll, of the property hereinafter set forth to be benefited by drainage work (*as the case may be*) have petitioned the council of the said _____ of _____ praying that (*here set out the purport of the petition, describing generally the lands and roads to be benefited*).

And whereas, thereupon the said council has procured an examination, to be made by _____, being a person competent for such

purpose, of the said area proposed to be drained and the means suggested for the drainage thereof, and of other lands and roads liable to assessment under *The Municipal Drainage Act*, and has also procured plans, specifications and estimates of the drainage work to be made by the said and an assessment to be made by him of the lands and roads to be benefited by such drainage work, and of other lands and roads liable for contribution thereto, stating as nearly as he can the proportion of benefit, outlet liability and injuring liability, which in his opinion will be derived or incurred in consequence of such drainage work by every road and lot, or portion of lot, the said assessment so made being the assessment hereinafter by this by-law enacted to be assessed and levied upon the roads and lots, or parts of lots hereinafter in that behalf specially set forth and described; and the report of the said in respect thereof, and of the said drainage work being as follows: (*here set out the report of the engineer or surveyor employed.*)

And whereas the said council are of opinion that the drainage of the area described is desirable:—

Therefore the said municipal council of the said of , pursuant to the provisions of *The Municipal Drainage Act*, enacts as follows:—

1st. The said report, plans, specifications, assessments and estimates are hereby adopted, and the drainage work as therein indicated and set forth shall be made and constructed in accordance therewith.

2nd. The reeve (*or mayor*) of the said may borrow on the credit of the corporation of the said of the sum of dollars, being the funds necessary for the work *not otherwise provided for* (*or being said municipality's proportion of the funds necessary for the work*), and may issue debentures of the corporation to that amount in sums of not less than \$50 each, and payable within years from the date of the said debentures with interest at the rate of per centum per annum, that is to say: (*insert the manner of payment annually and whether with or without coupons, and if the latter, omit the last clause of this paragraph*) such debentures to be payable at , and to have attached to them coupons for the payment of interest.

3rd. For paying the sum of (\$410), the amount charged against the said lands and roads for benefit, and the sum of (\$180), the amount charged against said lands and roads for outlet liability, and the sum of (\$135), the amount charged against said lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality, and for covering interest thereon for years, at the rate of per centum per annum, the following total special rates over and above all other rates shall be assessed, levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the undermentioned lots and parts of lots and roads, and the amount of the said total special rates and interest against each lot or part of lot respectively shall be divided into equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for years, after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or part of lot.	Acres.	Value of benefit.	Value of outlet liability.	Value of injuring liability.	To cover interest for years at per cent.	Total special rate.	Annual assessment during each year for years.
10	5	200	\$ 100 00	\$ 23 00				
10	S. 1/4 6	100	50 00	10 00				
10	N. 1/4 6	50	30 00	5 00				
10	S. W. 1/4 8	100	80 00	13 00				
10	S. W. 1/4 & N. 1/4 9	} 150	150 00	20 00				
10	S. 1/4 4	200	.....	24 00				
10	S. 1/4 3	100	.....	13 00				
9	W. 1/4 5	100	.....	40 00				
9	N. 1/4 6	50	.....	25 00				
9	N. E. 1/4 & N. 1/4 7	} 150	.....	70 00				
Total for benefit			410 00	108 00	135 00			
" outlet			108 00					
" injuring			135 00					
Roads (and lands) of municipality			100 00					
Total			\$753 00					

4th. For paying the sum of (\$100), the amount assessed against the said roads and lands of the municipality, and for covering interest thereon for _____ years at the rate of _____ per centum per annum, a special rate on the dollar, sufficient to produce the required yearly amount therefor shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the said _____ of _____ in each year for _____ years, after the final passing of this by-law, during which the said debentures have to run.

5th. This by-law shall be published once in every week for four consecutive weeks in the _____, newspaper, published in the town of _____ (or printed and served or mailed as prescribed), and shall come into force upon _____ and after the final passing thereof, and may be cited as the " _____ By-law."

10 Edw. VII. c. 90, Schedule B.

CHAPTER 199.

An Act respecting Municipal Arbitrations.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Municipal Arbitrations Act*. 3-4 Geo. V. c 49, s. 1.

Appointment
of Official
Arbitrator.

2.—(1) All claims against the corporation of a city having a population of not less than 100,000 for compensation or damages for land expropriated or injuriously affected under *The Municipal Act*, and all other claims and questions arising under any lease or other contract to which the corporation is a party, and which by law or by the terms of the lease or contract are to be determined by arbitration, shall be heard and determined by an official referee appointed by the Lieutenant-Governor in Council and who shall be called the Official Arbitrator.

Rev. Stat.
c. 192.

Powers, etc.,
of Official
Arbitrator.
Qualification.

(2) The Official Arbitrator shall

(a) be a barrister of at least ten years' standing at the bar of Ontario;

(b) have all the powers of an official referee under *The Judicature Act* and of an arbitrator under *The Municipal Act* or under *The Arbitration Act*;

Powers.
Rev. Stat. c. 56.
Rev. Stat.
c. 192.
Rev. Stat. c. 65.

Status.

(c) be an officer of the Supreme Court;

Disability.

(d) not act as solicitor or counsel for or against the corporation or for any other municipal corporation;

Other powers.

(e) have all the powers of a Judge of the Supreme Court including those relating to the production of books and papers, the amendment of notices for compensation or damage and of all other notices and proceedings, the rectification of errors or omissions, the time and place of taking examinations and views, the assistance of engineers, surveyors or other experts, and as respects all matters incident to the hearing and determination of matters before him or proper for doing complete justice therein between the parties,

including the power of awarding costs. 3-4 Geo. V. c. 49, s. 2.

3. If any person interested in any such claim or question desires that the same should be determined by the Official Arbitrator he shall give to the clerk of the municipality and to every other person interested seven clear days' notice that the same is so referred, specifying therein the nature of the claim or question to be determined, and the amount in controversy; and upon such notice, with proof of the service of it, being filed with him the Official Arbitrator may proceed to hear and determine the matters so referred to him. 3-4 Geo. V. c. 49, s. 3.

Commencement of proceedings under Act.

4. Where the Official Arbitrator proceeds partly on view or upon any special knowledge or skill possessed by himself he shall put in writing as part of his reasons a statement of such matter sufficiently full to allow the Divisional Court to determine the weight which should be attached to it. 3-4 Geo. V. c. 49, s. 4.

When arbitrator's statement reasons in writing.

5. The award of the Official Arbitrator, with his notes of evidence and exhibits and the reasons of his decision, shall be filed in the office of the registrar of the Appellate Division and notice of the filing shall forthwith be given by the Official Arbitrator to the parties who appeared or were represented upon the reference or to their solicitors; and upon the request of any of the parties interested in the inquiry the notes taken by the shorthand writer, if any, shall be extended by him and, upon payment of his proper fees therefor, shall be filed with the registrar. 3-4 Geo. V. c. 49, s. 5.

Filing award.

Extending notes of evidence.

6. The award when so filed shall not be made public until all the fees payable to the Official Arbitrator have been paid to him. 3-4 Geo. V. c. 49, s. 6.

Fees to be paid before award made public.

7. The award may be appealed against to a Divisional Court in the same manner as the decision of a Judge of the Supreme Court sitting in Court is appealed from, and shall be binding and conclusive upon all parties to the reference unless appealed from within six weeks after notice that it has been filed. 3-4 Geo. V. c. 49, s. 7.

Appeal to Divisional Court.

8. The time of any vacation of the Supreme Court shall not be reckoned in the computation of the time for doing any act or taking any proceeding in relation to the appeal 3-4 Geo. V. c. 49, s. 8.

Vacation.

9. Where no appeal is taken within the prescribed time, or when an appeal has been disposed of, the exhibits may be delivered out to the parties entitled to them. 3-4 Geo. V. c. 49, s. 9.

Giving out exhibits when no appeal.

Transferring
actions to
Arbitrator.

10. Where an action has been brought or is pending the Court or a Judge thereof, if of opinion that the relief sought is properly the subject of a proceeding under this Act, on the application of either party or otherwise, may at any stage of the action order it to be transferred to the Official Arbitrator on such terms as to costs and otherwise as may be deemed proper; and the Official Arbitrator shall thereupon give such directions as to the prosecution of the claim before him as he may deem just and convenient, and, subject to the provisions, if any, in respect thereto in the order of transfer, the costs of the action shall be in his discretion. 3-4 Geo. V. c. 49, s. 10.

How costs to
be taxed.

11. Costs awarded by the Official Arbitrator shall be taxed by one of the taxing officers of the Supreme Court, and shall be taxed upon such scale and be payable to such parties as may be determined by the Official Arbitrator. 3-4 Geo. V. c. 49, s. 11.

Fees of Official
Arbitrator.

12.—(1) The Official Arbitrator shall be entitled to be paid for his services while sitting upon any arbitration at the rate of \$20 per day, or a proportionate part thereof where a sittings upon any one day occupies less than a whole day; and for a meeting, at which the reference is not proceeded with but a postponement is made at the request of any party, \$4.

By whom
payable.

(2) One-half of such fees shall be payable by each of the parties to the reference if only two parties are interested, and proportionately by all parties interested if a larger number than two are so interested; but the Official Arbitrator shall have power to award that any sum so paid or payable may be recoverable by any one or more of the parties from any other or others of them, and such fees shall be recoverable as any other costs of the arbitration.

Recovery
of fees.

(3) If the award is not taken up within thirty days after service upon the parties of the notice of filing thereof the fees and expenses of the Official Arbitrator shall be recoverable by action from any one or more of the parties to the arbitration.

Idem.

(4) Nothing herein shall prejudicially affect the right of the arbitrator to recover his fees or expenses in any way in which they may now be recovered. 3-4 Geo. V. c. 49, s. 12.

Appointment
of assessor.

13.—(1) The Lieutenant-Governor in Council may appoint for such municipality an assessor of sound judgment, experience and knowledge in and as to matters relating to real property within the municipality to sit with the Official Arbitrator.

In what
cases to be
called in.

(2) The assessor shall be called upon by the Official Arbitrator—

(a) upon the request of all the parties to an arbitration, and at any stage of the proceedings; or

(b) where the Official Arbitrator desires his advice and assistance, and no party to the proceedings objects thereto, at the time he is so called upon.

(3) The assessor shall not make or join in the award, but shall otherwise give the Official Arbitrator such assistance as he may require. Function of assessor.

(4) The assessor shall be entitled for his services while sitting on an arbitration to be paid at the rate of \$10 per day, or a proportionate part thereof where a sitting on any one day occupies less than a whole day; and for a meeting where the reference is not proceeded with but a postponement is made at the request of any party, \$2. Assessor's fee.

(5) The fees of the assessor shall be payable by the same parties and in the same proportion and manner and shall be recoverable in the same way as those of the arbitrator, and shall be treated in all respects in the same manner as the fees of the arbitrator as to the ultimate payment thereof and as to the manner of such payment. 3-4 Geo. V. c. 49, s. 13. How payable.

14.—(1) The Judges of the Supreme Court shall have the same power to make rules with respect to matters and proceedings under this Act and tariffs of fees as they have in respect to proceedings under *The Judicature Act*. Power to make rules and tariff. Rev. Stat. c. 56.

(2) Such rules and tariffs shall be published in the *Ontario Gazette* and shall thereupon have the force of law, and the same shall be laid before the Assembly forthwith after such publication if the Assembly is then in session, and if it is not then in session then within fifteen days after the opening of the next session. 3-4 Geo. V. c. 49, s. 14. Publication of rules and tariff.

15.—(1) This Act shall extend and apply to the County of York and to the Township of York, and to any municipality the council of which by by-law declares that it is desirable that the municipality shall be brought within the provisions of this Act; and in that case this Act shall be read as though it had been expressly applied to such municipality by the terms thereof. Application Act.

(2) Where the council of any such municipality has by by-law so declared, or shall hereafter so declare, an Official Arbitrator may be appointed for such municipality by the Lieutenant-Governor in Council; and he shall have and may exercise within such municipality all the powers conferred upon the Official Arbitrator by this Act. Appointment in such cases.

(3) The council of a municipality which has passed a by-law under subsection 1 may repeal it at any time after the expiration of six months from the passing of the by-law; and upon such repeal this Act shall cease to apply or be in force in such municipality. 3-4 Geo. V. c. 49, s. 15. Repeal of by-law the bringing Act into force.

CHAPTER 200.

An Act to make better provision for keeping and auditing Municipal and School Accounts.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

1. This Act may be cited as *The Municipal and School Accounts Audit Act. New.*

Act not to apply to cities of over 15,000.

2. This Act shall not apply to any city which by the latest enumeration of the assessors is found to have a population of over fifteen thousand. R.S.O. 1897, c. 228, s. 1.

Appointment of Provincial Municipal Auditor.

3. The Lieutenant-Governor in Council may from time to time appoint for the purposes of this Act a Fellow of the Institute of Chartered Accountants of Ontario or some other expert accountant who shall be known as "The Provincial Municipal Auditor." R.S.O. 1897, c. 228, s. 2.

Auditor may make rules subject to approval by Order in Council.

4. The Provincial Municipal Auditor, subject to the approval of the Lieutenant-Governor in Council, shall from time to time frame rules respecting

- (a) The number and forms of books of account to be kept by the treasurer of every municipality and police village;
- (b) The system of book-keeping to be adopted by the treasurers of all or any class of municipal corporations, and by the treasurers of all or of any class of school boards;
- (c) The manner in which books of accounts, vouchers, receipts, money and securities of municipal corporations and school boards shall be kept;
- (d) The audit and examination of accounts and money of municipal corporations, and of school money by municipal and school auditors respectively, or by the Provincial Municipal Auditor or by any person appointed by him for that purpose. R.S.O. 1897, c. 228, s. 3.

Rules to have force of law.

5. Such rules shall, after approval by the Lieutenant-Governor in Council and publication in *The Ontario Gazette*, have the force of law, and any officer of a municipal

corporation guilty of any wilful act or omission in contravention of such rules, in addition to any other penalty provided by law, shall incur a penalty of not less than \$20 nor more than \$100, and shall be disqualified for the period of two years thereafter from holding any municipal office. R.S.O. 1897, c. 228, s. 4.

Penalty for violation of rules.

6. In order that municipal accounts may be kept correctly and according to a uniform method the auditor shall prepare a book or sets of books of account upon a proper system for use by the corporation of a municipality, or by a police village; and he shall submit such books to the Lieutenant-Governor in Council for approval. R.S.O. 1897, c. 228, s. 5.

Auditor to prepare books for municipal files.

7. The auditor, when directed by and subject to the approval of the Lieutenant-Governor in Council, shall also from time to time prepare books of account upon a simple and uniform system of book-keeping for use by school boards throughout Ontario. R.S.O. 1897, c. 228, s. 6.

Books for use of school boards.

8.—(1) After the approval of such books and after notice of their preparation and publication has been given in *The Ontario Gazette* and in two newspapers published in the city of Toronto once a week for three successive weeks, and after notice of such approval has been sent by registered post to the clerk of each municipal corporation, the council of each of such municipalities and each of such school boards shall, at the beginning of the next year after the last publication of such notice, procure the book or books prescribed for the municipal corporation or board, and shall keep the accounts of the corporation or board therein and in accordance with the system provided thereby.

Councils and boards to procure books prescribed.

(2) Any municipal corporation which refuses or neglects so to do shall incur a penalty of \$100 for every month it may be in default; and every school board of a city or town which refuses or neglects so to do shall incur a penalty of \$50, and every other school board shall incur a penalty of \$25 for every month it is in default.

Penalties.

(3) Such penalties shall be recoverable by the Auditor or with his consent by any ratepayer of the municipality.

By whom recoverable.

(4) Where a municipal corporation or board establishes to the satisfaction of the Auditor that the system adopted and the books in use are sufficient and satisfactory, and the Auditor so certifies, the use of the books or the adoption of the system hereinbefore provided for shall not be compulsory and the penalties in such cases shall not be incurred. R.S.O. 1897, c. 228, s. 7.

When use of prescribed books or system not compulsory.

9. If, in the opinion of the Auditor, such book or any one or more of them are not likely to be published by some responsible publisher the Auditor may call for tenders for

Arrangements for publication of books.

their publication and, with the approval of the Lieutenant-Governor in Council, may arrange for such publication and for the sale thereof, and in order that such books may be supplied to the public at a reasonable cost may, with the like approval, fix the price at which the same shall be sold. R.S.O. 1897, c. 228, s. 8.

Inspection and
audit of muni-
cipal accounts.

10.—(1) The Auditor may at any time on his own motion, or whenever requested by any two members of a municipal council, make an inspection, examination or audit of the books, accounts, vouchers and money of any municipal corporation in the hands of the treasurer or collector thereof; and when requested by a writing signed by thirty ratepayers resident in the municipality and directed by the Lieutenant-Governor in Council so to do he shall make such inspection, examination or audit.

Or of school
accounts.

(2) The Auditor may at any time of his own motion make an inspection, examination or audit of the books, accounts, vouchers and money of any school board in the hands of its treasurer, collector or other officer.

Inspection by
chartered
accountant.

(3) The Auditor may, with the approval of the Lieutenant-Governor in Council, appoint a Fellow of the Institute of Chartered Accountants of Ontario or some other expert accountant who is familiar with municipal accounts to make such inspection, audit or examination, and the person so appointed shall have all the powers and shall perform all the duties by this Act conferred or imposed upon the Auditor when acting under this section. R.S.O. 1897, c. 228, s. 9.

Powers of
auditor while
holding inves-
tigation.

11. The Auditor upon any such audit, examination or inspection may require the treasurer, collector or auditor of any municipal corporation or school board or any other person to appear and give evidence on oath, and for this purpose he shall have the same power to summon such officers or other persons to attend as witnesses, to enforce their attendance and to compel them to produce books and documents and to give evidence as any Judge or Court has in civil cases, and the officers of all municipal corporations and school boards shall as often as required by the Auditor produce all books and documents required to be kept by them at the treasurer's office for examination and inspection. R.S.O. 1897, c. 228, s. 10.

Treasurer
to notify
auditor of
appointment.

12. Every treasurer of a municipal corporation shall, within five days after his appointment to office, inform the Auditor of his appointment and of his full name and post office address. R.S.O. 1897, c. 228, s. 11.

Treasurer to
produce books
when required
by auditor.

13. The treasurer of every municipal corporation shall, whenever requested so to do by the Auditor, at any reasonable time, produce and exhibit for examination and inspection

all books, accounts, vouchers and documents in his hands as such treasurer. R.S.O. 1897, c. 228, s. 12 (1).

14. The Auditor or any other person making an audit, inspection or examination under this Act shall report thereon to the council of the municipal corporation and to the Lieutenant-Governor, and shall in such report make such recommendations as seem to him to be necessary to carry out the provisions of this Act and *The Municipal Act* and the School Laws as regards the keeping of the books and accounts of the municipal corporation or board and so as best to secure its money and assets. R.S.O. 1897, c. 228, s. 13.

Report on inspection, audit, etc.

Rev. Stat. c. 192.

15. Every member of a municipal council shall by every means in his power procure the due observance by the council and the officers of the corporation of the provisions of this Act and the rules to be made hereunder, and shall see that the recommendations of the Auditor or of any person appointed by him as hereinbefore mentioned when concurred in and approved of by the Auditor are duly carried out. R.S.O. 1897, c. 228, s. 14; 4 Edw. VII. c. 10, s. 53.

Members of councils to see that Act carried out.

16.—(1) Where the Auditor personally conducts an audit, inquiry, inspection or examination under this Act the fees and expenses to be allowed therefor shall be determined and certified by the Attorney-General, and shall become a debt due to the Crown from the municipal corporation, and in default of payment thereof the Treasurer of Ontario may deduct the same from any money payable to the corporation by the Province, or such fees and expenses may be recovered by and in the name of the Auditor. R.S.O. 1897, c. 228, s. 15.

Payment of expenses of inspection, audit, etc., by auditor.

(2) Where such audit, inquiry, inspection or examination is conducted by any person other than the Auditor the fees and expenses to be allowed for the same shall be determined by the Auditor, subject to the approval of the Attorney-General, and shall thenceforth become a debt due to such person by the municipal corporation, and shall be payable within three months after demand thereof at the office of the treasurer of the municipal corporation. R.S.O. 1897, c. 228, s. 16.

Payment of expenses when work done by another person.

17. The Auditor shall not receive from any municipal corporation or from any officer thereof any fees or other remuneration for services rendered by him in the performance of the duties of his office, but he shall be paid out of such money as may be appropriated by this Legislature for the purposes of this Act such salary as shall be voted by the Assembly. R.S.O. 1897, c. 228, s. 17.

Remuneration of auditor.

18. Every person guilty of any act or omission in contravention of this Act for which no other penalty is provided

Penalties.

shall incur a penalty of not less than \$5 and not more than \$20. R.S.O. 1897, c. 228, s. 23.

How
recoverable.

Rev. Stat. c. 90,

19. Except where otherwise provided all penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*.

Securities
heretofore
given by
treasurers not
affected.

20. Nothing in this Act shall affect or impair any security heretofore given by any treasurer to a municipal corporation or school board for the due and faithful performance of the duties of his office, nor relieve the sureties named in any bond or other security from liability in case of default on the part of the treasurer in duly accounting for all money coming into his hands, nor shall anything herein contained relieve the council or board or any member thereof from the duty of appointing competent auditors. R.S.O. 1897, c. 228, s. 24.

CHAPTER 201.

An Act to exempt Firemen from Certain Local Services.

THIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Firemen's Exemption Act*. Short title.
3-4 Geo. V. c. 50, s. 1.

2. Whenever any company of firemen has been regularly enrolled in any city, town or place, with the approval of the council of the municipality, the council shall direct the clerk to grant to each member of such company a certificate that he is enrolled in the same, which certificate shall exempt the person named therein, during the period of his enrolment and his continuance in actual duty, from serving as a jurymen or a constable and in any municipal office. When firemen to be exempted from serving as jurors and in certain other offices.
3-4 Geo. V. c. 50, s. 2.

3. Upon complaint to the council of neglect of duty by any member of such fire company the council shall examine into the same and for any such cause, and also in case any member of such company is convicted of a breach of any of the rules legally made for the regulation of the same, may strike off the name of any such member from the list of the company and thenceforward the certificate granted to such member shall have no effect in exempting him from any duty or service. Forfeiting exemption in case of misconduct.
3-4 Geo. V. c. 50, s. 3.

4.—(1) Where any member of any company of firemen has regularly and faithfully served for seven consecutive years in the same he shall be entitled to receive, upon producing due proof of such service, a certificate from the clerk that he has been regularly enrolled and has served as a member of the fire company for the space of seven years. Firemen having served seven years exempted from serving in certain offices.

(2) Such certificate shall exempt the person named therein from serving as a constable and in any municipal office. Idem.
3-4 Geo. V. c. 50, s. 4.

5.—(1) The council of a city may by by-law enact that when a member of a company of firemen regularly enrolled in such city has regularly and faithfully served in such company for seven consecutive years, such member, upon produc- Powers of a city council as to further exemption.

Certificate to
that effect.

ing due proof of such service, shall receive a certificate from the clerk that he has been regularly enrolled and has served as a member of the company for the space of seven years.

Effect of
certificate.

(2) Such certificate shall exempt the person named therein from the payment of any personal statute labour tax thereafter and from serving as a juror on the trial of any cause in any court. 3-4 Geo. V. c. 50, s. 5.

[*As to exemption of firemen from jury services, see The Jurors Act, Rev. Stat. c. 64, s. 4; and as to exemption from Municipal offices, see The Municipal Act, Rev. Stat. c. 192, s. 55.*]

CHAPTER 202.

An Act respecting Public Libraries and Art Schools.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Public Libraries Act.*" Short title.
9 Edw. VII. c. 80, s. 1.

2. In this Act,—

Interpretation.

(a) "Board" in Part I. shall mean a Public Library "Board."
Board, in Part II. shall mean a Board of Management of a Public Library Association, and in Part III. shall include both;

(b) "Electors" shall mean persons qualified to vote at "Electors."
municipal elections;

(c) "Minister" shall mean Minister of Education; "Minister."

(d) "Regulations" shall mean regulations made under "Regulations."
the authority of *The Department of Education* Rev. Stat. c. 265.
Act. 9 Edw. VII. c. 80, s. 2.

PART I.

ESTABLISHMENT AND MANAGEMENT.

3. A public library may be established in any city, town, Establishment of public
village, or police village in manner hereinafter provided. libraries.
9 Edw. VII. c. 80, s. 3.

4.—(1) The council of a city, town or village upon receipt Petition for
of a petition, Form 1, signed, in the case of a city by at least
one hundred, in the case of a town by at least sixty, and in
the case of a village by at least thirty electors, shall prepare
and submit to the electors in the manner provided by The Rev. Stat.
Municipal Act a by-law, Form 2, for the establishment of c. 192.
a public library.

(2) The council of the township, or the councils of the Township by-
townships in which a police village is situate, upon receipt of laws for
a petition, Form 1, signed by at least thirty electors resident police villages.
in such police village, shall prepare and submit to the electors
within the police village a by-law, Form 2, for the establish-
ment of a public library therein.

By-law
for taking
over property
of library
association.

(3) Where an association has been established under Part II., or under any Act relating to Mechanics' Institutes, and the members of such association, at any annual meeting or at a special meeting called for the purpose, by resolution declare that they desire that the library of the association be transferred to a board appointed under this Part, the council may submit to the electors a by-law for taking over the assets and property of the association and for establishing the library as a public library under this Part. 9 Edw. VII. c. 80, s. 4.

Duty of
council to
pass by-law.

5. Where the by-law receives the assent of the majority of the electors voting thereon it shall be the duty of the council to pass the same without unnecessary delay. 9 Edw. VII. c. 80, s. 5.

If defeated
not to be
re-submitted
in same year.

6. Where the by-law does not receive such assent no new by-law for the same purpose shall be submitted to the electors within the same year. 9 Edw. VII. c. 80, s. 6.

Board of
management.

7.—(1) The general management, regulation and control of the library, and of any reading-room and museum established in connection therewith shall be vested in a board, which shall be composed of the mayor of the city or town, or the reeve of the village or township, and three other persons to be appointed by the council, three by the public school board, or the board of education, and two by the separate school board, if any.

How
constituted.

Board in
police village,
how composed.

(2) The board in a police village shall be composed of the police trustees and two persons appointed by the board of the school section or each of the school sections comprised in, or forming part of the police village, and two persons appointed by the separate school board, if any, having jurisdiction in the police village.

Who not
eligible.

(3) No person who is a member of the body entitled to appoint shall be qualified to be a member of the board, and no person shall be appointed who is not a British subject and a resident of the municipality or police village.

Annual retire-
ment of one
member from
each class.

(4) Of the members appointed by the council, and the public school board, or board of education and the separate school board, respectively, one shall retire annually but may be reappointed.

Term of office
of first mem-
bers.

(5) Of the three members first appointed by the council and public school board or board of education respectively, one shall be appointed to hold office until the first day of February after his appointment, one until the first day of February in the following year, and one until the same day in the year next thereafter; and of the two members first appointed by the separate school board one shall be appointed to hold office until the first day of February after

his appointment, and one until the first day of February in the following year; but every member shall continue to hold office until his successor is appointed.

(6) If a member of the board is convicted of any offence against the criminal laws of Canada, or becomes insane, or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, or ceases to be a resident within the municipality or police village, he shall *ipso facto* vacate his seat, and the remaining members shall forthwith declare his seat vacant and notify the appointing body accordingly.

(7) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the term for which he was appointed, the member appointed in his place shall hold office for the remainder of the term.

(8) Subject to the foregoing provisions each of the members appointed by the council, or public school board, or board of education, shall hold office for three years from the first day of February in the year in which he is appointed; and each of the members appointed by the separate school board, for two years from the first day of February in the year in which he is appointed.

(9) The first appointment of members shall be made at the first meeting of the appointing body after the final passing of the by-law, and the annual appointments thereafter shall be made at the first meeting of the appointing body after the first day of January in each year; and any vacancy arising from any cause, other than the expiration of the time for which a member was appointed, shall be filled at the first meeting thereafter of the appointing body, but if for any reason an appointment is not made at the prescribed time the same shall be made as soon as may be thereafter.

(10) The board shall be a body corporate by the name of "The ——— Public Library Board," inserting the name of the municipality or police village.

(11) The board shall, at the first meeting in February of each year, elect one of its number as chairman who shall hold office for one year, and he shall preside at meetings of the board when present, and in his absence a chairman may be chosen *pro tempore*, and the chairman shall have the same right of voting as the other members of the board, and no other, and any question upon which there is an equality of votes shall be deemed to be negatived.

(12) The board shall meet at least once in every month and at such other times as it may think fit.

(13) The chairman or any two members may summon a special meeting of the board by giving at least two days' notice.

notice in writing to each member specifying the purpose for which the meeting is called.

Quorum.

(14) No business shall be transacted at any general or special meeting unless four members are present.

Record of business.

(15) All orders and proceedings of the board shall be entered in books to be kept for that purpose and shall be signed by the chairman.

Record as evidence.

(16) The orders and proceedings so entered and purporting to be so signed shall be deemed to be the originals thereof, and such books may be produced and read as evidence of the orders and proceedings in any judicial proceeding. 9 Edw. VII. c. 80, s. 7.

Duties of board.

8.—(1) Subject to the restrictions and provisions herein-after contained the board shall procure, erect, or rent the necessary buildings for the purposes of the library and reading-room, and for all other purposes authorized by this Act; and shall purchase books, newspapers, magazines, maps and specimens illustrative of the arts and sciences for the library, reading-room and museum, and do all things necessary for keeping the same in a proper state of preservation and repair; and shall provide the necessary fuel, lighting, and other accommodation; and may appoint and dismiss at pleasure the officers and servants of the board.

Limit as to expenditure on capital account.

(2) A board shall not in any year purchase any land or erect any buildings or make any addition or alterations thereto exceeding in cost \$2,000 without the authority of the municipal council. 9 Edw. VII. c. 80, s. 8 (1, 2).

Reading-rooms, branch libraries, museums.

(3) A board may open a reading-room or museum, or both, in connection with the library; may establish branch libraries and branch reading-rooms in the municipality or police village. 9 Edw. VII. c. 80, s. 8 (3); 1 Geo. V. c. 79, s. 16 (1), *part*.

Museums in cities of 100,000.

(4) In a city having a population of 100,000 or over the board shall not establish a museum without the consent of the municipal council. 9 Edw. VII. c. 80, s. 8 (4).

Library Board in city of 200,000 may lease unoccupied portion of premises for Art museum.

(5) The Board of a Public Library of a city having a population of 200,000 or over may permit an incorporated Art Museum to occupy, for the purposes of its gallery or museum, any part of the library building not required for immediate use for the purposes of the board upon such terms and conditions and for such period, not exceeding five years, as may be agreed on, provided that it be a term of the agreement that the board may determine such right of occupation whenever the space is required for the purposes of the board, and that it be also a term of the agreement that the pictures and objects of art of the museum shall be open to public view free of charge on such days as the board and

the Council of the museum may agree. 9 Edw. VII. c. 80, s. 8 (7).

9.—(1) The board may make rules for the use of the library, reading-rooms and museum, and for the admission of the public thereto, and for regulating all other matters and things connected with the management of the library, reading-rooms, and museum; and for the management of all property under its control: and may impose penalties for breaches of the rules, not exceeding \$10, for any offence. 9 Edw. VII. c. 80, s. 9 (1); 1 Geo. V. c. 79, s. 16 (1), *part*. Board may make by-laws respecting use of library.

(2) After such rules have been published once a week for at least two weeks in a newspaper published in the municipality or police village, or in a newspaper circulated therein if no newspaper is published therein, they shall be binding on all persons concerned. Promulgation of regulations.

(3) Nothing herein shall preclude the recovery of the value of articles or things damaged, or the amount of damage sustained, from persons liable for the same. 9 Edw. VII. c. 80, s. 9 (2, 3). Recovery of damages.

10. The board shall submit to the municipal council, on or before the fifteenth day of February in each year, a detailed estimate of the several sums required for the ensuing financial year to pay Submission of estimates by board to council.

(a) the interest on any money borrowed as hereinafter mentioned, and

(b) the amount required to be raised for the sinking fund, or to pay any instalment of principal and interest, and

(c) the expense of maintaining and managing the libraries, reading-rooms and museums under its control. 9 Edw. VII. c. 80, s. 10; 1 Geo. V. c. 79, s. 16 (1), *part*.

11. The board shall keep distinct and regular accounts of its receipts, payments, credits and liabilities, and the accounts shall be audited by the municipal auditors at the expense of the municipal corporation in like manner as the accounts of a municipal corporation, and shall, after having been audited, be laid before the council by the board. 9 Edw. VII. c. 80, s. 11; 3-4 Geo. V. c. 51, s. 1. Board to keep regular accounts.

12.—(1) The council of the municipality, in addition to all other rates and assessments levied and assessed for municipal purposes, shall levy and assess in each year a special rate to be called "The Public Library Rate" sufficient to provide the amount estimated by the board as hereinbefore provided, but such rate shall not exceed one-half mill in the dollar unless, by a vote of two-thirds of all the members of Special rate for library purposes.

the council, such rate is increased to an amount not exceeding in the whole three-fourths of a mill in the dollar.

In cities of
100,000.

(2) In a city having a population of 100,000 or over the council shall not levy in any year a rate greater than one-quarter of one mill in the dollar, and such further rate as may be necessary to raise the money required to pay the annual interest and sinking fund on money borrowed for the purpose of acquiring a site or of purchasing or erecting buildings.

Rates for
public
library in
police village.

(3) The council of the township in which a police village in which a public library has been established, under the provisions of this Part, is situate, in addition to all other rates and assessments levied and assessed for municipal purposes in the police village, shall levy and assess in each year a special rate to be called "The Public Library Rate" sufficient to provide the amount estimated by the board, not exceeding one-half mill in the dollar on the assessment of the police village.

By-laws for
incurring
debts for free
libraries.

(4) Where a board requires the council to raise money for the purpose of acquiring a site or purchasing or erecting buildings, which money, together with the amount required for the expense of maintaining and managing the libraries, reading-rooms, museums, classes and art schools under its control, would involve the levy in any one year of a rate greater than one-quarter of a mill in the dollar, in the case of a city having a population of 100,000 or over, or greater than one-half mill in the dollar in the case of any other municipality and of a police village, the council, by a two-thirds vote of all the members thereof, may refuse to raise such sum, and, if the board so requires, the question shall be submitted by the council to a vote of the electors of the municipality entitled to vote on money by-laws, in the manner provided by *The Municipal Act*, and in the event of the assent of the electors being obtained it shall be the duty of the council to raise the amount in the manner provided by that Act.

When assent
of electors
required.

Rev. Stat.
c. 192.

Public library
debentures.

(5) The council may also, subject as hereinafter provided, on the requisition of the board, raise by a special issue of debentures of the municipality, to be termed "Public Library Debentures," such sums as may be required for the purpose of acquiring a site or of purchasing and erecting the necessary buildings, and in the first instance, for obtaining books and other things required.

Interest and
sinking fund.

(6) During the currency of the debentures so issued the council shall withhold and retain, as a first charge on the annual rate, the amount required to be raised in the year to provide for the payment or redemption of the debentures and the interest thereon.

(7) All money so levied or raised shall be received by the treasurer of the municipality in the same manner as other municipal funds, and be paid out by him on the order of the board, save as to the amount required to be raised in the year to provide for the payment or redemption of the debentures and the interest thereon.

Application of moneys raised on debentures.

(8) It shall not be necessary to submit to the electors a by-law authorizing the issue of debentures if the annual sum required to be raised in the year to provide for the payment or redemption of the debentures and the interest thereon does not exceed one-half mill in the dollar.

When by-law need not receive assent of electors.

(9) Notwithstanding anything contained in this Act a municipal corporation may issue debentures for the purposes of this Act, according to the provisions of *The Municipal Act*.

Debentures under Municipal Act. Rev. Stat. c. 192.

(10) Notwithstanding anything in this section the council of a city having a population of 100,000 or over may submit to the electors qualified to vote on money by-laws, a by-law for raising money for acquiring a site or for purchasing or erecting buildings, and if so submitted the council shall not be required to pass such by-law until it has been approved of by a majority of such electors voting thereon.

Submission of by-law to electors in cities of over 100,000.

9 Edw. VII. c. 80, s. 12.

13. All libraries, reading-rooms and museums established under this Part shall be open to the public free of charge; provided, however, that the board may impose such fee as seems proper on non-residents who may desire to use the library, reading-room or museum.

Admission to be free. Use of library by non-residents.

9 Edw. VII. c. 80, s. 13.

14. Any municipality or school section contiguous or near to a city, town, village or township in which a public library is situate may enter into an agreement with the board for the use of such library and for such representation on the board as may be deemed expedient.

Municipalities may unite.

9 Edw. VII. c. 80, s. 14.

15. The teachers' institute of any inspectorate in which a public library is situate may place the books held by such institute in the custody of the board, and on so doing shall be entitled to appoint one member of the board, and in such cases every member of such teachers' institute shall be entitled to use the public library on the same terms as residents of the municipality in which the library is situate.

Rights of teachers' institute.

9 Edw. VII. c. 80, s. 15.

16. Every farmers' institute or woman's institute may affiliate with any public library on terms to be agreed upon with the board, and in the event of such affiliation every member of such farmers' institute or woman's institute shall be entitled to use the library on the same terms as residents

Affiliation of farmers' or woman's institutes.

of the municipality in which the library is situate. 9 Edw. VII. c. 80, s. 16.

PART II.

LIBRARY ASSOCIATIONS.

Establishment
of Association.

17.—(1) In a township, and in any other municipality in which a public library has not been established under Part I, any number of persons not less than ten, being British subjects and not less than 21 years of age, may form an association for the purpose of establishing a public library, reading rooms and evening classes by making a declaration, Form 3, and filing the same with an affidavit of the due execution thereof in the office of the Registrar of Deeds for the registration division in which the public library is to be situate.

Fee on registering
declaration.

(2) For the filing of the declaration and for every certified copy the registrar shall be entitled to a fee of fifty cents.

Transmission
to Minister.

(3) A copy of such declaration shall be transmitted to the Minister.

Incorporation.

(4) The persons whose names are subscribed to the declaration and all persons who become members of the association as provided by section 18, shall be a body corporate by the name of "The ——— Public Library Association," inserting the name of the municipality in which the library is to be established. 9 Edw VII. c. 80, s. 17.

Members.

18. Any person 12 years of age or upwards may be a member of the association, but no person shall be elected or vote at any meeting who is not of the full age of twenty-one years. 9 Edw. VII. c. 80, s. 18.

Board of
Management.

19.—(1) The general management, regulation and control of the library shall be vested in and exercised by a Board of Management, which shall be composed of not less than five nor more than nine persons.

First meeting
for election
of Board.

(2) The persons whose names are subscribed to the declaration of incorporation shall meet within thirty days after the filing thereof and shall elect from among their number the members of the board.

Term of office
of members.

(3) The members so elected shall hold office until their successors are elected.

Annual election
thereafter.

(4) On the 2nd Monday in January in each year thereafter the members of the association shall meet and elect the members of the board for the year.

Election of
president and
appointment
of officers.

(5) The board shall, as soon after the election as is convenient elect one of its members as president, and shall also appoint a secretary, treasurer, and librarian and such other

officers as may be necessary for the purposes of the association. 9 Edw. VII. c. 80, s. 19.

20.—(1) The board shall provide suitable accommodation for the library, reading-rooms and evening classes, and shall have power to procure, erect or rent buildings for that purpose, and to purchase books, magazines, newspapers and other reading matter for the library and reading-rooms. Duty to provide accommodation.

(2) The board shall make rules for the management and use of the library and reading-rooms and for conducting the business of the board, for holding regular and special meetings, for defining the duties of the officers of the board, and the fees to be paid by members, and generally for such other matters, not inconsistent with this Act, as may be necessary for promoting the usefulness of the public library and reading-rooms and the efficiency and discipline of the evening classes. Rules and regulations.

(3) Minutes of all the proceedings of the board shall be kept and entered in books to be provided for that purpose by the board. 9 Edw. VII. c. 80, s. 20. Minutes.

21. Where a municipal council has passed a by-law for taking over the assets and property of a library association and for establishing the library as a public library under Part I, upon the organization of a board of management under that Part, the association shall be dissolved and thereafter Part I of this Act shall apply to the library, and the assets and property of the association shall vest in the Public Library Board. 9 Edw. VII. c. 80, s. 21. Dissolution of association on taking over library under Part I.

PART III.

GENERAL PROVISIONS.

22. No public library established under Part II. which has not a membership of at least fifty persons over 21 years of age shall be entitled to share in any appropriation for public libraries. 9 Edw. VII. c. 80, s. 22. Conditions precedent to sharing in legislative grant.

23.—(1) Subject to the next preceding section and to the Regulations there shall be paid to the board of every public library established under this Act, out of any money appropriated for that purpose, not more than 50 per cent. of the expenditure made for books, magazines, periodicals, newspapers, bookbinding and materials used for cataloguing and classifying a public library under the Dewey Decimal or Cutter systems or a combination of such systems, but no grant shall be paid upon an expenditure upon books of fiction in excess of 45 per cent. of the amount expended upon other books, and no grant shall exceed in respect of books, book-

binding and materials for so cataloguing and classifying \$200 or in respect of magazines, periodicals and newspapers \$50.

Distribution.

(2) After the money payable under subsection 1 has been apportioned the Minister may authorize the payment out of the residue, if any, of the appropriation of the following sums, or a proportionate part of the same:

- (a) \$5 to a public library which has kept a reading room open not less than three hours per day for three days in each week; or
- (b) \$10 to a public library which has kept a reading room open not less than 3 hours per day for six days in each week; and
- (c) \$5 to a public library whose total receipts are less than \$25 per annum; or
- (d) \$10 to a public library whose total receipts are over \$25 and less than \$100; or
- (e) \$15 to a public library whose total receipts are over \$100 and less than \$200; or
- (f) \$20 to a public library whose total receipts are over \$200 and less than \$500.

Expenses of instruction, etc.

(3) The Minister may authorize to be paid out of any money appropriated for public libraries,

- (a) salaries and expenses of officers of the Department employed in giving special instructions to boards and to librarians, including the cost of books, blue prints, plans of library buildings, manuscripts, engravings and photographs and of other appliances or things authorized by the Minister, and
- (b) expenses incurred in holding meetings of library institutes.

How grant computed.

(4) In estimating the amount to which a public library is entitled only cash payments out of money received by way of grant or gift or as membership fees shall be included, and no public library shall be entitled to any grant under this section by reason of the expenditure of money borrowed by the board or by reason of payments made in promissory notes or in any other way than by cash only.

Training Librarians.

(5) Subject to the regulations the Minister may apportion any money appropriated for holding schools for the training of librarians. 9 Edw. VII. c. 80, s. 23.

Travelling Libraries.

24. Subject to the regulations the Minister may establish and maintain travelling libraries out of such sums as may be appropriated for that purpose and may purchase books, bookcases and other appliances required therefor and may

pay for cataloguing, classifying and annotating lists of books, and may employ and pay assistants to aid in circulating the libraries and pay the travelling expenses of the assistants. 9 Edw. VII. c. 80, s. 24.

25.—(1) Where a board makes a rule under which an age limit is established for children taking books from the library or a rule prohibiting the public, in the case of a free library, or the members of the association, in the case of any other library, from having free access to the books of the library or of a section of the library, the rule shall not take effect until it has been approved by the Minister. Rules as to access.

(2) If any such rule is in force at the time of the passing of this Act the board shall, within three months of the date of the receipt of a request from the Minister, forward to him a copy of such rule, and the Minister may disallow the same. Disallowance of rule.

(3) Failure to comply with the request of the Minister shall render such rule void. 9 Edw. VII. c. 80, s. 25. When rule void.

26.—(1) Subject to the regulations the Minister may Library institutes.

(a) provide for the establishment of library institutes and for the holding of the meetings thereof;

(b) employ library experts to attend library institute meetings and pay their travelling and other necessary expenses in going to, staying at and returning from the meetings, but nothing shall be paid to them for services;

(c) pay the travelling and other necessary expenses of one delegate from each board in attending a meeting of the institute.

(2) If a board, after having received notice of the date for holding a meeting of the library institute, does not send a delegate to such meeting the Minister may withhold a sum not exceeding \$5 from the next government grant payable to the board.

(3) All expenses incurred in establishing and maintaining library institutes may be paid out of any money appropriated for that purpose or out of any money appropriated for public libraries. 9 Edw. VII. c. 80, s. 26.

27. The Judge of the County or District Court, upon the request of the board of any public library within his jurisdiction, may appoint the janitor to be a special constable whose special duty it shall be to preserve the peace in the rooms of the library and in the building in which the library is situate, and to prevent the stealing, injury or destroying of the property of the board or association, and to apprehend offenders, and he shall have generally all the powers Janitor may be appointed special constable.

and privileges and be liable to all the duties and responsibilities which pertain to the office of a constable. 9 Edw. VII. c. 80, s. 28.

Neglect to keep library open.

28.—(1) Where a board fails or neglects to keep open the library for two years, or to furnish an annual report, as required by the Regulations, for two consecutive years, such failure or neglect shall effect a dissolution of the corporation, and the Minister may take possession of all its books, magazines and periodicals and dispose of the same as he may deem proper, but nothing herein contained shall confer any authority or control over any land belonging to a board or library association.

Failure to comply with regulations.

(2) Where a board in any year fails to comply with the Regulations the Minister may withhold the whole or any part of the government grant payable to the board for that year. 9 Edw. VII. c. 80, s. 29.

Seat vacated by interest in contract with corporation.

29.—(1) A member of a board shall not enter into any contract, agreement, engagement or promise, either in his own name or in the name of another, and either alone or jointly with another in which he has any pecuniary interest, profit or promised or expected benefit, with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board, and every such contract, agreement, engagement or promise shall be null and void, and a member violating the provisions of this section shall *ipso facto* vacate his seat.

(2) On the complaint of any ratepayer of the municipality or police village, or of the remaining member or members of the board, the Judge of the County or District Court or, if he is a member of the board, the Master in Chambers shall, on proof of the facts, declare the seat vacant, and the secretary of the board shall forthwith notify the appointing body to make a new appointment. 9 Edw. VII. c. 80, s. 30.

Newspaper proprietors inserting official advertisements not disqualified from sitting on boards, etc.

30. No person shall be disqualified from being a member of a board or from sitting and voting on such board by reason only of being proprietor of or otherwise interested in a newspaper or other periodical publication which is subscribed for or in which an advertisement is inserted by the board in the regular course of business if such subscription or advertisement is paid for at the usual rate, but such member shall not be entitled to vote where his own account is in question. 9 Edw. VII. c. 80, s. 31.

Penalty for disturbing a public library.

31. Any person who wilfully interrupts or disquiets a public library, reading-room, or museum by rude or indecent behaviour, or by making a noise either within the building or so near thereto as to disturb the persons using the same, shall

for each offence incur a penalty not exceeding \$20. 9 Edw. VII. c. 80, s. 32; 1 Geo. V. c. 79, s. 16 (1), *part*.

32. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act* and shall be paid to the board concerned. 9 Edw. VII. c. 80, s. 33.

33. Every public library heretofore established or continued under any Act respecting public libraries is continued and shall be subject to the provisions of this Act. 9 Edw. VII. c. 80, s. 34.

SCHEDULE.

FORM 1.

(Section 4.)

PETITION.

To the municipal council of

We, the undersigned electors of the city of
(or as the case may be), respectively, pray that a public library
may be established in this municipality under *The Public Libraries Act*. 9 Edw. VII. c. 80, Sched. Form 1.

FORM 2.

(Section 4.)

BY-LAW FOR ESTABLISHING A PUBLIC LIBRARY.

A by-law to provide for the establishment of a public library in the city of (or as the case may be).

Whereas electors have petitioned the council of the city of (or as the case may be), praying for the establishment of a public library under *The Public Libraries Act*.

Be it therefore enacted by the municipal council that—

1. In case the assent of the electors is given to this by-law, a public library be established in this municipality in accordance with the provisions of *The Public Libraries Act*.

2. The votes of the electors shall be taken on this by-law on the day of 19, commencing at nine o'clock in the forenoon and continuing until five o'clock in the afternoon, at the undermentioned places: (*Here insert (1) the wards; (2) the polling sub-divisions; (3) the places for holding the poll and the names of the deputy returning officers.*)

3. On the day of next, at his office in the at o'clock in the noon, the mayor (or reeve, or as the case may be), shall appoint in writing, signed by him, two persons to attend at the final summing-up of the votes by the clerk, and

one person to attend at each polling place on behalf of the persons desirous of promoting, and a like number on behalf of the persons desirous of opposing the passing of this by-law.

4. The clerk shall attend at the _____ at the hour of _____ o'clock in the _____ noon, on the _____ day of _____ 19____, to sum up the number of votes given respectively for or against the by-law.

A. B.,
Mayor (or Reeve).
C. D.,
Clerk.

Passed the _____ day of _____ 19____.

Notice by Clerk.

The above is a true copy of a proposed by-law which will be taken into consideration by the council of _____ after one month from the _____ day of _____ 19____, being the date of the first publication thereof, and the polls for taking the votes of the electors will be held at the hour, day and places named in the by-law. 9 Edw. VII. c. 80, Sched. Form 2.

FORM 3.

(Section 17.)

DECLARATION FOR ESTABLISHMENT OF A PUBLIC LIBRARY ASSOCIATION.

We, the subscribers hereto, hereby declare our intention to form an association for the purpose of establishing a public library at _____ in the township of _____ (or, as the case may be), and we further declare that the name of the association shall be the Public Library Association, as provided by *The Public Libraries Act*.

Dated the _____ day of _____ 19____.
(Names and descriptions of the applicants.)

9 Edw. VII. c. 80, Sched. Form 3.

CHAPTER 203.

An Act to provide for the Establishment and Maintenance of Public Parks.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Public Parks Act*. 2 Geo. Short title.
V. c. 46, s. 1.

2.—(1) A park, or a system of parks, avenues, boulevards ^{Establishment} and drives, or any of them, may be established in any municipality, and the same, as well as existing parks and avenues, may be controlled and managed in the manner hereinafter provided. ^{of parks.}

(2) Subject to the provisions of subsection 5, if a petition ^{Petition.} is presented to the council of any county or city signed by not less than 500 electors, or to the council of any town or township signed by not less than 200 electors, or to the council of any village signed by not less than 75 electors, praying for the adoption of this Act, the council may pass a by-law ^{By-law.} giving effect to the petition, with the assent of the electors qualified to vote at municipal elections, given before the final passing of the by-law as provided by *The Municipal* ^{Rev. Stat.} *Act*. ^{c. 192.}

(3) If the majority of the votes is in favour of the by- ^{Idem.} law, it shall be finally passed by the council at its next regular meeting held after the taking of the vote, or as soon thereafter as may be.

(4) If the vote is adverse no by-law for the same pur- ^{Restriction.} pose shall afterwards be submitted to the electors within the same year.

(5) It shall not be necessary for a county council to sub- ^{when} mit the by-law for the assent of the electors if the by-law, on ^{submission to} the final reading thereof, is approved by three-fifths of the ^{electors} ^{unnecessary.} members of the council then present. 2 Geo. V. c. 46, s. 2.

3. The parks, avenues, boulevards, and drives, and ap- ^{Parks to be} proaches thereto, and streets connecting the same, shall be ^{open to} open to the public free of all charge, subject to the by-laws, ^{public.} rules and regulations of the Board of Park Management, and subject also to the provisions of sections 13 and 14. 2 Geo. V. c. 46, s. 3.

Board of Park
management.

4.—(1) In case of the adoption of this Act the general management, regulation and control of all existing parks and avenues, and of all properties both real and personal, applicable to the maintenance of parks belonging to the municipality, and of all parks, avenues, boulevards and drives which may thereafter be acquired and established under the provisions of this Act shall be vested in and exercised by a board to be called "The Board of Park Management."

Authority
of Board
to what
streets ap-
plicable.

(2) The authority of the Board shall not extend to any streets open at the time of the adoption of the Act, with the exception of streets expressly specified in the by-law adopting the Act, or which at any time, or from time to time afterwards, in pursuance of an agreement between the council and the Board, the council by by-law declares to be subject to this Act.

Consent of
Municipal
Council and
Agricultural
Society.

(3) Nothing in this Act shall authorize the Board to assume possession or control of any exhibition park in or belonging to the municipal corporation without the consent of both the council and of any district agricultural society or exhibition association having an interest therein. 2 Geo. V. c. 46, s. 4.

Constitution
of Board.

5. The Board shall be a corporation, and shall be composed of the head of the municipality and of six other persons, who shall be residents of the municipality, but not members of the council, and shall be appointed by the council on the nomination of the head, but the council may refuse to appoint any or all of the persons so nominated, in which case further nominations shall be made by the head, until six persons are nominated who are approved by the council. 2 Geo. V. c. 46, s. 5.

Tenure of
office.

6.—(1) The appointed members of the Board shall hold office for three years, except in the case of the members of the first board, two of whom shall hold office until the 1st day of February in the year following the first appointments, two for one year, and two for two years, from that day; such members retiring in rotation, two each year, the order of such retirement to be determined by lot among themselves at their first meeting; but every member of the Board shall continue in office until his successor is appointed and shall be eligible for reappointment.

Vacancies.

(2) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the time for which he was appointed, the member appointed in his place shall hold office for the remainder of his term and until his successor is appointed.

Term of
office of
appointed
members.

(3) Save as aforesaid, each of the appointed members shall hold office for three years from the 1st day of February in the year in which he is appointed.

(4) The first appointment of members of the Board shall be made at the first regular meeting of the council held after the final passing of the by-law. First appointments.

(5) Thereafter the appointments shall be made annually at the first meeting of the council held after its organization; and any vacancy arising from any cause other than the expiration of the time for which the member was appointed shall be filled at the first meeting of the council held after the occurrence of the vacancy. Subsequent appointments.

(6) The first members of the Board, within ten days after their appointment, and on such day and hour as the head of the municipal corporation shall appoint, notice of the appointment in writing, signed by him, having been duly sent to the address of each member at least one week before the day and hour named therein, shall meet at the office of the head for the purpose of organization, shall elect one of their number chairman and shall appoint a secretary who may be one of their own number. Organization of Board.

(7) If for any reason appointments are not made at the prescribed time the same shall be made as soon as may be thereafter. When appointments not made at required time.

(8) The chairman and secretary shall hold office at the pleasure of the Board, or for such period as the Board may prescribe. Tenure of office of chairman and secretary.

(9) When the chairman or secretary is absent, or unable to act, the Board may appoint a chairman or secretary *pro tempore*. Chairman and secretary pro tem.

(10) The Board shall meet at least once in every month. Monthly meeting.

(11) The chairman or any two members may summon a special meeting of the Board by giving at least two days notice in writing to each member, specifying the purpose for which the meeting is called. Calling special meeting.

(12) The office of a member who is absent from the meetings of the Board for three consecutive months, without leave of absence from the Board or without reasons satisfactory to the Board, shall be declared vacant by the Board, and notice thereof shall be given to the council at its next meeting. Vacating office by absence.

(13) No business shall be transacted at any special or general meeting unless at least four members are present. Quorum.

(14) All orders and proceedings of the Board shall be entered in books to be kept for that purpose and shall be signed by the chairman for the time being, and, when so entered and purporting to be so signed, shall be deemed to be original orders and proceedings, and the books may be produced and read in any judicial proceeding as evidence of the orders and proceedings. 2 Geo. V. c. 46, s. 6. Records.

Payment of expenses of members.

7.—(1) The members of the Board shall serve without compensation, but each member shall be entitled to receive his actual disbursements for expenses in visiting or superintending the park or park property where the visit or service is made or rendered by direction of the Board.

Prohibition against interest in contracts.

(2) No member of the Board, or of the municipality, shall have any contract with the Board, or be pecuniarily interested, directly or indirectly, in any contract or work relating to the park or park property. 2 Geo. V. c. 46, s. 7.

Assistance.

8. The Board may employ all necessary clerks, agents and servants, and may prescribe their duties and compensation. 2 Geo. V. c. 46, s. 8.

Custody and inspection of records.

9. The Board shall keep in its office all books, maps, plans, papers and documents used in and pertaining to the business of the Board, and the same shall be open to the examination of the members of the council, and of any other person appointed for that purpose by the council. 2 Geo. V. c. 46, s. 9.

Accounts.

10. The Board shall keep accounts of its receipts, payments, credits, and liabilities; and the same shall be audited by the auditors of the municipal corporation in like manner as other accounts of the municipal corporation, and shall thereafter be laid before the council by the Board. 2 Geo. V. c. 46, s. 10.

Power to make by-laws, etc.

11.—(1) The Board may pass by-laws for the use, regulation, protection and government of the parks, avenues, boulevards and drives, the approaches thereto, and streets connecting the same, not inconsistent with the provisions of this Act or of any law of Ontario.

Consent of Board necessary for exercise of certain powers.
Rev. Stat. c. 185.

(2) The powers conferred upon municipal councils by *The Ontario Railway Act*, so far as relates to any streets or approaches under the control of the Board, shall not be exercised without the consent of the Board, and no street railway or other railway shall enter upon or pass through the park.

Licensing of cabs and vehicles and sale of refreshments.

(3) The Board shall have power to license cabs and other vehicles for use in a park; and to let from year to year, or for any time not exceeding ten years, the right to sell refreshments, other than spirituous, fermented or intoxicating liquors, within the park under such regulations as the Board shall prescribe.

Penalties.

(4) The Board shall have power in and by their by-laws to attach penalties for the infraction thereof, and such by-laws may be enforced and the penalties thereunder recovered in like manner as by-laws of municipal councils, and the penalties thereunder may be enforced and recovered.

(5) The by-laws shall be sufficiently authenticated by being signed by the chairman of the Board, and a copy of any by-law, written or printed, and certified to be a true copy by any member of the Board, shall be receivable as evidence without proof of any such signature. 2 Geo. V. c. 46, s. 11. By-laws, authentication of.

12. Real and personal property may be devised, bequeathed, granted, conveyed, or given to the municipal corporation for the establishment or formation of a park, or for the purpose of the improvement or ornamentation of any park of the municipality, and of the avenues, boulevards and drives and approaches thereto, and of the streets connecting therewith; and for the establishment and maintenance on park property of museums, zoological or other gardens, natural history collections, observatories, monuments, or works of art, upon such trusts and conditions as may be prescribed by the donor. 2 Geo. V. c. 46, s. 12. Power of municipality to acquire property for park purposes.

13.—(1) The Board may acquire by purchase, lease or otherwise the land, rights and privileges required for park purposes under this Act. Power of the Board to acquire and.

(2) Land so acquired, together with that, the general management, regulation and control of which is vested in the Board under the provisions of section 4, exclusive of land acquired by devise or gift, shall not together exceed in the case of cities having a population of not less than 100,000 2,000 acres, and in the case of other cities or of counties 1,000 acres, and in the case of towns, villages or townships 500 acres. Area allowable.

(3) The conveyance of all land, rights and privileges so acquired by purchase or lease shall be taken to the municipal corporation. Grantee.

(4) The Board shall have power to let any land not immediately required for park purposes. Power to lease lands not required.

(5) If it has more land than is required for park purposes the Board may sell or otherwise dispose of the land not required in such manner and upon such terms as may be deemed most advantageous. Power to sell lands not required.

(6) Where a park has been purchased or has been acquired by the Board or by the corporation of the municipality, otherwise than by gift or devise, or by dedication to the public by the owner of the land, freely, or at a nominal price or rental, the Board may set apart a sufficient part thereof for athletic purposes or for the purposes of sport, exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the Board may see fit; but the powers conferred by this subsection shall not be exercisable with respect to any park unless and until the Board has applied for and

received the approval of the Ontario Railway and Municipal Board. 2 Geo. V. c. 46, s. 13.

Municipality
may empower
Board to
manage any
corporation
and.

14.—(1) The council of the municipal corporation may by by-law provide that any land acquired by the corporation and not immediately required for any other purpose shall be under the management and control of the Board, and the Board may set apart such land or any part thereof for athletic purposes or for the purposes of sport exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the Board may see fit.

Council may
repeal by-law.

(2) The council may repeal any by-law passed under subsection 1, and the municipal corporation may thereafter sell or otherwise dispose of the land or use the same for any lawful purpose of the corporation. 3-4 Geo. V. c. 18, s. 39.

Power to
enter on
lands and
appropriate
streams, etc.

15. The Board, its engineers, surveyors, servants and workmen may enter upon the land of any person in the municipality, or, in the case of a city within ten miles, and in the case of a town within five miles thereof, and may survey, set out, and ascertain such parts thereof as are required for parks, avenues, boulevards and drives and approaches thereto, or for any other purposes of the Board, including the supply of water for artificial lakes, fountains, and other park purposes; and, with the consent of all parties interested capable of consenting, may divert and appropriate any river, ponds of water, springs or streams of water therein which the engineer, surveyor or other person authorized by the Board may deem suitable for such purposes; and the Board may contract with the owner or occupier of the such land, and with those having a right or interest in such water, for the purchase or renting thereof or of any part thereof, or of any privilege which may be required for the purposes of the Board; but the Board shall not interfere with the waterworks or water supply of any municipal corporation or of any waterworks company. 2 Geo. V. c. 46, s. 14.

No interfer-
ence with
water-works.

Arbitration.

16. In case of any disagreement between the Board and the owner or occupier of, or any other person interested in such land, or any person having an interest in such water, or in the natural flow thereof, or in any such privilege respecting the amount of purchase money or yearly rental thereof, or as to the damages which the expropriation thereof by the Board will cause, or otherwise, the matter in question shall be determined by arbitration under *The Municipal Act*, and as hereinafter provided. 2 Geo. V. c. 46, s. 15.

Rev. Stat.
c. 192.

Application of
Rev. Stat.
c. 192.
ss. 321-347.

17. Sections 321 to 347 of *The Municipal Act* shall be read as part of this Act, and shall apply to the Board as

if the Board were named therein instead of the corporation or municipal council. 2 Geo. V. c. 46, s. 16.

18.—(1) The Board shall, in the month of February in every year, prepare an estimate of the sums required during the ensuing financial year, for: Board to make yearly estimates.

(a) The interest on money borrowed;

(b) The amount of the sinking fund;

(c) The expense of maintaining, improving, and managing the parks, boulevards, avenues and streets under its control; and

(d) The interest and instalments of purchase money for the purchase of small squares or parks.

(2) The Board shall report its estimate to the council not later than the 15th day of February in each year. When estimate to be reported.

(3) The council shall, in addition to all other rates and assessments for municipal purposes, levy and assess in every year a special annual rate, sufficient to furnish the amount required for the year, but not exceeding one-half mill in the dollar upon the assessed value of all rateable real and personal property. Such rate shall be called "The Park Fund Rate," and shall be deemed to be included in the limit of two cents on the dollar authorized by *The Municipal Act*. Special rate for Park purposes.

(4) Subject as hereinafter provided the council may also, on the requisition of the Board, raise by a special issue of debentures, to be called "Park Fund Debentures," the sums required for the purpose of purchasing the land and privileges which are reported by the Board to be necessary for park purposes, and for making permanent improvements upon any land theretofore acquired by the Board for park purposes. Power to issue debentures.

(5) If at least one-half of the cost of establishing a park is contributed by private subscription or otherwise the council shall, at the request of the Board of Park Commissioners, issue debentures for the remaining one-half, but only when the annual sum required to meet the annual interest and sinking fund can be provided for without exceeding the limit of one-half mill in the dollar provided for in subsection 3. Issuing of debentures for half cost of park when remainder contributed.

(6) It shall not be necessary to submit to the electors a by-law authorizing the issue of debentures in case the annual sum required to meet the annual interest and sinking fund does not, with a reasonable allowance for annual expenses of managing, improving and maintaining the parks and other works under the control of the Board, exceed the limit of half a mill in the dollar, any provisions in *The Municipal* By-law, when not necessary to submit to electors. Rev. Stat. 182.

Act, or any special Act, relating to the municipality, to the contrary notwithstanding.

Currency of debentures.

(7) The debentures shall be payable within forty years at furthest from the date of their issue.

To constitute lien.

(8) Debentures issued under the authority of this Act, shall form a lien and charge upon all land which is by this Act declared to be subject to the control and management of the Board.

Sale free from lien; application of proceeds.

(9) In case of a sale the Board may sell free from the lien, but the purchase money shall be applied to the payment of park debentures or to the purchase of other land for park purposes.

Annual rate for retirement of debentures.

(10) During the currency of the debentures the council shall withhold and retain out of and as a first charge on the annual rate the amount required to meet the annual interest of the debentures, and the annual sinking fund mentioned in subsection 3, to be provided for the retirement thereof as the debentures become due.

Provisions of Municipal Act.

(11) Except as in this Act otherwise expressly provided, the provisions of *The Municipal Act*, as to money by-laws and the debentures to be issued thereunder, shall apply to by-laws passed by a municipal council under the authority of this Act and the debentures issued thereunder.

Rev. Stat. c. 192.

Money, application of.

(12) All money realized or payable under this Act shall be received by the treasurer of the municipality in the same manner as other money, and shall be by him deposited to the credit of the park fund, and shall be paid out by him on the orders of the Board; save as to the amount required to meet the interest on and provide a sinking fund for debentures. 2 Geo. V. c. 46, s. 17.

Prohibitions and penalties.

19. No person shall

Hindering, etc., Board or its officers.

(a) Wilfully or maliciously hinder, or interrupt, or cause or procure to be hindered or interrupted, the Board or its engineers, surveyors, managers, contractors, servants, agents, workmen, or any of them in the exercise of any of the powers and authorities in this Act authorized and contained;

Wasting water.

(b) Wilfully or maliciously let off or discharge any water so that the same runs waste or useless from or out of any reservoir, pond, or lake, or other receptacle for water connected with any such park;

Fouling reservoir.

(c) Cause any dog or other animal to swim in, or throw or deposit any injurious, noisome, or offensive matter into the water in any reservoir, lake, pond, or other receptacle for water connected with any such park, or upon the ice in case such

water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes, or water, or encourage the same to be done;

- (d) Lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the waterworks connected with any such park or parks, or in any way obtain or use any water thereof without the consent of the Board; Diverting water.
- (e) Wash or cleanse any cloth, wool, leather, skin or animals, cause any dog or other animal to swim therein, or place any noisome or offensive thing within the distance of three miles in the case of a city, and one mile in the case of any other municipality, in any river, pond, creek, spring, source or fountain from which the water for the supply of any such park or parks is taken, or convey, cast, throw, or put any filth, dead carcass or other injurious, noisome or offensive thing therein, or within the distance as above mentioned; or cause, permit, or suffer the water of any sink, sewer, or drain to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in any way tainted or fouled; Fouling water supply.
- (f) Wilfully or maliciously injure, hurt, deface, tear or destroy any ornamental or shade tree or shrub or plant, or any statue, fountain, vase or fixture of ornament or utility in any street, park avenue, drive, or other public place under the control of the Board, or wilfully, negligently or carelessly suffer or permit any horse or other animal driven by or for him, or any animal belonging to him or in his custody, possession or control, and lawfully on the street or other public place, to break down, destroy or injure any tree, shrub or plant therein; Destroying ornamental trees, etc.
- (g) Wilfully or maliciously injure, hurt, or otherwise molest or disturb any animal, bird, or fish kept in any such park or in the lakes or ponds therewith connected. Injuring animals, etc.

(2) For every contravention of subsection 1, the offender shall incur a penalty not less than \$1 or more than \$20; or such offender may be imprisoned with or without hard labour, in the first instance, for any term not exceeding thirty days; and the person so offending shall be liable to action at the suit of the Board to make good any damage done by him. 2 Geo. V. c. 46, s. 18. Penalty.

20. The board of commissioners of police of every city and town shall, upon the request of the Board of park management, take such measures as may be necessary for the Police protection.

ment, detail for service in any of the property under the care or control of the park Board so many of the police force as the board of police commissioners may deem necessary to maintain order and protect property therein; and any police constable may remove therefrom any person violating any of the provisions of this Act, or of any of the rules and regulations established by the Board. 2 Geo. V. c. 46, s. 19.

Powers of
officers
of Board.

21. The watchmen and other officers of the Board, when in the discharge of their duties, shall have all the powers and authority of a constable. 2 Geo. V. c. 46, s. 20.

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